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EDITORIAL

WE have to leave it to our readers to try to co-ordinate and, as far as possible, reconcile the different views expressed in the symposium on "Assessing the Offender for the Courts" by an eminent lawyer, on the one hand, and by a principal medical officer and a forensic psychiatrist, both of very wide experience, on the other. There is one point, however, on which all three writers seem to agree, *i.e.*, that psychiatric examinations of persons charged in court should not become too frequent and not be demanded as a matter of course. As far as Mr. Raeburn is concerned, this is one of the main arguments of his contribution. He apparently wishes to limit the co-operation of the psychiatrist, at least for the stage before the finding of guilt, to what he calls "out-of-the-way cases" and for the stage between the finding of guilt and the sentence largely to advice on the best choice between institutional and non-institutional forms of sentence. Dr. Brisby and Dr. Scott, for their parts, although willing or even anxious to give the psychiatrist somewhat more scope, agree that what they regard as the present average of 17 per cent. of cases selected as suitable for, and in need of, psychiatric diagnosis is not unreasonable. No doubt what they have in mind is not a rigid and sacrosanct figure of 17 per cent., but a very approximate and elastic average leaving wide scope for deviations according to age, type of offence and offender, and many other factors.

All this and also the detailed observations on the best selection of cases for psychiatric observation and diagnosis will, we believe, meet with fairly general approval. More controversial, however, will be

Mr. Raeburn's challenging thesis that the patient of the Bench is not the offender but society, from which he concludes that there are very few points where the interests of the Bench and of the psychiatrist actually meet. To some extent, this thesis is of course merely a re-statement of the generally accepted view that the court has to pay attention primarily to the interests of society, whereas the psychiatrist is primarily concerned with the individual. It seems, however—although this may be a misinterpretation of his views—that Mr. Raeburn wishes to go beyond that and to claim that the court should be not at all concerned with the welfare of the individual offender, and it is here that many readers are likely to disagree with him. Is it really true that the law is solely concerned with society as a whole and can afford to ignore the interests of the individuals of which "society" consists? The diagnosis and the prescriptions which Mr. Raeburn proposes for this "impersonal patient," the way in which he accurately describes the illnesses of the "diseased body politic," its temperature, indignation and so on, refer in fact to the individuals behind society rather than to the impersonal body itself. Moreover, society is not only the patient, it is also the master of the judge; and the offender is not merely the patient of the psychiatrist, he is the patient of society through the medium of both the judge and, in some cases, the psychiatrist. In short, the whole situation is too involved to be expressed in any short formula.

Perhaps the greatest service rendered by Mr. Marcus in his careful dimensional study of a prison population lies not so much in the classifications he arrives at, or in his demonstration of the utility of statistical tools in criminology, but in the fact that he focuses several of the points at which statistico-dimensional conclusions may supplement or correct the findings of clinical psychiatry; and of course vice versa. A closer *rapprochement* between these two branches of psychological science is long overdue; it has indeed been greatly retarded by the simple fact that the psychiatrist originally approached the subject of crime already armed with a general classification of mental disorders into the pigeon-holes of which he was concerned to fit the phenomena of anti-social behaviour. And this led at times

to the dogmatic statement of conclusions which seemed to run contrary to common experience, the more so if the psychiatrist happened to be wedded to the tenets of unconscious psychology.

In particular the psychiatrist's proneness to isolate single causal factors gave rise more often to controversy than to clarification. To take but one example: Mr. Marcus shows very clearly that the attempt to correlate some forms of delinquency rather exclusively with affective factors in the offender's mother relationship is not borne out or rather is greatly modified by statistical examination. And indeed it should have been obvious that a *constellation* of family influences comprising relations to mother, father and siblings, or their substitutes, is bound to exert a decisive influence on behaviour. On the other hand, whilst it is easy to detect in the criminal general factors of emotional instability or inhibition (whether constitutional or acquired) some more precise clinical subdivision of types is necessary to give this observation practical reference. And here the difficulties begin. Take, for instance, the factor of manifest homosexuality. It has not yet been established that emotional stress or unbalance is necessarily associated with manifest homosexuality, and, even if there is such an association, whether it is due in the main to the manifest sexual deviation or the latent (unconscious) reactions that predispose to manifest homosexuality. In any case it can be maintained that (existing laws notwithstanding) no case sentenced for homosexual acts committed in private should be included in any criminological study unless the act has been accompanied by violence, rape, or seduction of minors.

Be that as it may, the main need in such researches is for closer co-operation between the psychologist and the psychiatrist. Dimensions should be neither too large nor too small (numerous) and they should be co-ordinated not only with sound clinical observations but with sound clinical theories. The "active-passive" dimension, or the "aggressive-inadequate" continuum raise the fundamental question of an "autoplastic-alloplastic series," meaning thereby the mastery of mental stress, on the one hand through modification or attempted modification of the individual, or on the other through modification or attempted modification of the environment; and this in turn raises the equally fundamental question of a "conflict"

series, perhaps the most fruitful of all the criminological dimensions. On these and cognate matters the trained forensic psychiatrist has much to contribute, including the selection of observational "units." In return for these services the dimensional statistician can contribute measured and disciplined perspectives to the sometimes over-imaginative and enthusiastic psychiatrist.

It will be remembered that Dr. Scott's article¹ in January 1959 opened up the important avenue to the approach to the goal of social control of juvenile offences by looking at the problem from the viewpoint of the young person's attitude to the courts. The natural *sequela* was the viewpoint of the parents of offenders. Every citizen is supposed to know the laws governing offences, and since the day when the earliest communities had their law-givers and the rewards and punishments which they enacted, members of communities have an attitude to law which must in the nature of individual and group life be distinctly equivocal. Each seeks protection for himself against his offending fellows in any form of interpersonal relationship which calls for regulation. Each person regards with some measure of suspicion the coercive character of the primitive association of the community. It is true that persons have their consciences which are law-givers and punishers. Most persons have a fairly balanced relationship between this consciousness of right and of guilt, and the enactments of a society which, as Freud has attempted to show in psychological language, is a sort of additive communal attitude springing from primeval instincts and family tensions. The law is obeyed; the law is evoked at the same time as it is execrated. It is not surprising, therefore, that in the families which have an offending member a wide spectrum range of attitudes becomes openly expressed. As Mr. Voelcker clearly demonstrates, there is a wide range of difference between persons in their attitude to the court and its officers. In the early days, particularly where talion law operated with duress, all knew that this act was followed by that communal action—the punishment more than followed the crime, it was almost a mirror image of it. With the advent of benevolent insights into offensive behaviour the causes

¹ "Juvenile Courts: the Juvenile's point of view," *Brit.J.Delinq.*, IX, 3, 200-211.

of behaviour came to supplement legal attitudes. Crime seen by authority was a simple equation—this crime merits this reward. How much was merely assessed in terms of quantity of damage or the heinousness of the act in terms of public security and moral dictate. The juvenile court has a two-fold character—it is both legal and as regards punishment retributive, and psycho-social in regard to motivation and treatment. While the law recognises the sick mind it confines it within very limited boundaries. And, as Voelcker shows, the offender and his parents are equally ambivalent—they want law and punishment and benevolence and compassionate treatment.

How wide is the spread of diversity of opinion can be seen from the remarks Voelcker has gathered in interviewing the parents of young offenders. It provokes the question: what is the common attitude of parents towards law and order, indeed how far do parents resent or accept public judgment on youthful conduct? It encourages the hope that a control group of parents might well be asked similar questions as to the significance of court judgments on juvenile offences. This might help to establish whether or not the family of origin of a young offender is not already adopting an attitude towards justice in general and whether the very private relationship of parent and children does not create a special attitude to conduct. Whether we are ripe for a wholly non-punitive attitude to juvenile crime might emerge from some such extended inquiry.

ASSESSING THE OFFENDER FOR THE COURTS

I. WHAT THE BENCH SHOULD KNOW

WALTER RAEBURN (*London*) *

IN a criminal court, the Bench is concerned with the putting down of crime. Its primary functions are to ascertain guilt and to give sentence. Connected with these functions are the three elements of prevention, detection and treatment. Prevention is mainly the concern of organisations, whether spiritual or temporal, that are devoted to the promotion of moral welfare. Detection is essentially the function of the police. Treatment belongs to those to whom offenders come or are sent as patients, whether voluntarily or through the courts.

These various preventive, detective and remedial bodies are all distinct from the Bench. Nevertheless, the Bench is involved to some extent in the characteristic duties of each of them. As regards prevention, the putting down of crime means, even in its crudest form, discouraging its repetition. Others besides the offender have to be discouraged; and the offender himself has to be discouraged as well as punished. Without detection, the Bench cannot make even a start with the performance of its function of ascertaining guilt by trial; whereas the sentence of the court should be bound up with the right kind of treatment.

The question is: what kind of treatment is right? To the doctor, the simple answer is that the right treatment is whatever may be the safest and surest way of curing the patient. A judge might rightly give the same answer. But he would be referring to a different patient.

The Bench's patient is the diseased body politic. It is that which the Bench is primarily concerned to keep in good health. The individual offender is in this connection no more, as it were, than a

* Q.C.; member of the committee of management of a local authority approved school; member of the Probation Advisory and Training Board.

gathering to be lanced or a fever to be reduced. The Bench must never lose sight of the elusive disease with which its great intangible patient is being tormented. The failure, in fact, to appreciate this divergence of their respective duties, the one towards the sick person, the other towards the sick community, is that which so often causes friction between the psychiatrist and the Bench.

In the disembodied person of the sick community the Bench has a troublesome patient. It suffers from a chronic complaint. It is in need of regular treatment. The general prescription is: keep in an even temperature; do not allow the patient to become over-excited or worried; promptly reduce all painful symptoms wherever, whenever and as soon as they appear; and use local anaesthetics wherever possible. Radical treatment of the disease is a matter for a consultant, for the social and political reformer. The Bench is simply the general practitioner.

Look now at the prescription.

First, the even temperature. Neither great severity nor over-leniency is good for this impersonal patient. Nor is it good for it if the courts cannot be relied on to deal similarly with comparable offences. It should be made to feel that it can count on justice always being done evenly and regularly, without its having specially to notice it.

Next, as to excitement and worry. Indignation, with resulting loss of confidence in the law, is very bad for the patient. Carried too far, it can lead to a breakdown in which the patient takes its treatment into its own hands, and disregards the doctor altogether. An extreme example of this is lynch-law. The Bench can never afford so to defy public opinion, by exercising either ferocity or indulgence, as to bring the value of the law into question or to provoke its obstruction. This was well illustrated in the days when over 200 offences were punishable by death, and when even children were liable to be hanged. Repeatedly, juries would acquit in the teeth of overwhelming evidence, simply to save the accused from the hated gallows. Similarly today, the declared policy of imprisoning everyone convicted of driving a motor-car when under the influence of drink has resulted in many cases of the most perverse refusal by juries to convict. Conversely, the failure of the court to send to

prison a psychologically sick man found guilty of a sexual offence against a child, or a road-happy motorist who has had the misfortune to cause the death of a pedestrian, has been known to result in cruel torment by his neighbours of the victim of the Bench's intended mercy.

Then, with regard to the prompt reduction of symptoms. The public at large is apt to be impatient of patience with offenders. The plain man believes in prompt and effective action. He wants to see quick results. He puts his faith in the "short, sharp shock." He calls for the revival of whipping, for an extensive and less discriminate use of the detention centre. The excuse that he makes (and he probably believes it himself) is that once painful punishment is "over and done with," the offender can start again with a clean sheet. But under the surface, what the plain man really wants is vengeance. The sight of the wrongdoer going unhurt rankles within him. Quick satisfaction, in place of the gnawing of long-drawn-out dissatisfaction, gives him relief. Yet, base as are these sentiments, the Bench has to take them into account and to indulge them. It must do so precisely because the public is its patient, because vindictiveness is a symptom of the disease with which the Bench has to reckon, and because if it is allowed to gnaw at the patient, treatment will be retarded.

Lastly, as concerns local anaesthetics. Everything that has so far been said means the ruthless and almost brutal sacrifice of the individual offender in the interests of the public. But unless it must otherwise hurt the patient, that is to say, the public, there is no need for the treatment to be brutal. If suitable anaesthetics are used, treatment may be given almost painlessly. What the public needs in order to deaden the pain is education. It needs educating to understand the value of patience, even sympathy, in treating its offenders. The beneficial effects of public self-denial and imaginative forbearance must be proved both by steady propaganda and by practical demonstration. The Bench ought to administer the anaesthetic firmly and with a steady hand. The public patient may feel the prick of the needle when first the Bench offends its susceptibilities. But once desensitised, the patient public can be relied on to watch

unmoved its offenders being handled with a gentleness that would formerly have seemed as alarming as it looked outrageous.

At this point it is that the Bench, having brought its own patient under control, has to deal with the psychiatrist's potential patient. The questions then arise whether the stage has been reached at which the psychiatrist should be called in; if so, to what extent; and how far Bench and psychiatrist are able to help one another. Again the difference of function must be considered. Even at this stage the offender is in no sense the patient of the Bench. The latter cannot and may not undertake his treatment. At most it will hand him over for that to someone else: to the authorities of the prison, the borstal institution, the detention centre, the approved school, the probation service, the mental hospital, or to some "fit person." It will hand him over to be treated as others may advise. What the Bench needs by way of guidance is an indication as to which of these authorities is the right one.

Its choice is indeed further limited. Committal to some of the institutions mentioned is available only to the courts dealing with adults; and of these institutions, fewer are available to the magistrates' courts than to the superior courts. There are, on the other hand, certain types of treatment which are normally used only by the juvenile courts. Still further, the choice is narrowed by public considerations, already noticed, which override the personal welfare of the offender himself. The Bench is therefore left, in general, with a bare choice between what may be called respectively "in-patient" and "out-patient" treatment.

So far as concerns in-patient treatment, the sentence once given, the matter is out of the hands of the Bench. It will be someone else who will decide whether or not the relative institution should invoke psychiatric help. From this it follows that the Bench should need the guidance of psychiatric advice only when considering whether the offender is to keep his liberty, and if so, on what terms. Even that would not apply to any but a borderline case. In the present state of comparative enlightenment and overcrowded prisons, deprivation of liberty should always call for special justification. It cannot, it is submitted, properly be justified unless the nature of the offence requires it as a matter of public policy or unless the offender is one

who will not respond to any other treatment. The cases falling within the exceptions are doubtless common enough, and it is by no means every Bench that takes the view that they should be classified as the exception rather than the rule. But those who regard them as the rule are unlikely anyhow to trouble about calling for psychiatric reports. They will just pass sentence on principle, and, so far as they are concerned, that concludes the matter.

For those, however, who take a longer view of their responsibility, and who do not feel compelled on public grounds to have the offender locked up, the difficult problem remains of assessing the likelihood of his response to out-patient treatment. For this, reliance is usually placed on the advice of a probation officer coupled with a consideration of the offender's previous record. The more experienced and sensitive members of the Bench may also permit themselves to judge by the direct impact on them of the offender's personality.

In a very narrow field, there is scope here too for the help of a psychiatrist. Occasionally, previous failures in the offender's life, and even a false impression made by a nervous or a plausible offender, can be explained away by the psychiatrist. While this is true, its limitations nevertheless demand a cautious approach. Unless the clinical evidence is rather definite, it would be unfair to expect a psychiatrist to advise too positively along these lines. The Bench, moreover, may itself perceive other clues leading behind the cloak of outward appearances.

But there are now and then pitfalls of which the psychiatrist can usefully warn the Bench. Examples of these can be suggested. Timely advice could save the Bench from sending a young offender back to a home where some form of resentment or jealousy or special temptation prevails. A wise word could serve to keep a highly-strung boy from being thoughtlessly committed to a detention centre. A child can sometimes be rescued from the blunder of being returned to the mercy of parents who have shockingly mishandled him. Usually, however, to trouble a psychiatrist to attend court, only to give advice such as this, amounts to taking the proverbial sledgehammer to crack a pea-nut.

When the Bench does call in the psychiatrist, what it wants from him is not an elaborate report in technical language, but just his plain

recommendations supported by simple reasons. This is not as arrogant as it may perhaps seem. Granted that the offender is not the patient of the Bench, it follows logically from that. The advice which the Bench is seeking is as to where to send him, and not as to how to treat his failing. The Bench wants guidance as to why it should send him here rather than there. To be let into the depths of his trouble may tend merely to cause confusion.

Even in sexual cases, or in those cases of blackmail and larceny which have some sexual involvement, there is really little that the psychiatrist can do by way of helping the Bench. For one thing, most Benches already have their own approach to such cases. Some treat them essentially as instances of social offences of a kind for which prison is called for, regardless of the effect on the offender. Others see prison as the worst possible place for people with such proclivities, and require them in any event to undergo psychiatric treatment as a condition of a probation order. There are also cases in which offenders are required, for the limited period allowed by law, to submit themselves as "voluntary" patients in mental hospitals¹; in which event, the law prescribes the reception of competent medical evidence to advise the court.

But whatever the policy of the Bench and whatever the circumstances, the medical evidence tends always to follow the same pattern. With a greater or less degree of confidence, the psychiatrist called in to advise the Bench will almost invariably agree simply to do his best. That, however, carries matters little or no further. If prison is the policy of the Bench, the psychiatric evidence will make no practical impression at all. If psychiatric treatment is its policy, the evidence is not needed. In the end, the only task of the psychiatrist is to set the seal of his authority on what the Bench anyhow intends to do, and to make the necessary arrangements for the patient to be received in or to attend the hospital. The latter is a service which could as well be rendered through the probation officer, without trespassing on the valuable time of the psychiatrist at all.

¹ Recent legislation (The Mental Health Act, 1959) will, when it comes into full operation, shortly render this situation obsolete. But the requirement of competent medical evidence has not only been retained; it has been reinforced.

Out-of-the-way cases do, however, at times come before the court. Someone may have committed a major crime who turns out, under psychological analysis, to have offended during what might be termed a "blank period," and to have been at the time, as it were, a totally different person. A report to this effect might turn a common crime into an involuntary lapse of will-power. An instance of this was the case of a soldier on active service in the Middle East. He was blown up by an exploding shell, completely lost his memory, and was found unconscious by some Arabs. While he recovered consciousness and physical activity, he had no recollection whatever of the past. He joined the band of Arabs, learned their language, and became in time their leader, committing with them the most appalling atrocities. Suddenly one day he came to himself again and returned to the British lines. He was quite unable to give any account of where he had been or what he had done. Covering the period since he was blown up, his mind was a total blank. Years later, punctuating a successful professional career, he was given to periodical outbreaks of criminal fraud which seemed completely out of character with the known man. At length, a deep analysis uncovered the hidden life of which he himself was quite unconscious, and thereafter treatment became possible, and eventually effective.

Yet evidence of a history of this kind usually goes to conviction rather than to sentence. It illustrates the kind of circumstances in which a verdict of diminished responsibility may now be found. The psychiatrist, when his turn comes, may find the patient interesting to treat. So far as the Bench is concerned, its main interest is in the question whether any repetition of anti-social conduct may be expected to occur. Unless there is a strong assurance that it may not, the probable consequence, if the offence committed warrants it in law, will be the imposition of a life sentence.

It is now possible to draw a general conclusion. As for the Bench, psychiatry has a major part to play in dealing with offenders only when the offender has been handed over to the psychiatrist for treatment; that is to say, after sentence has been passed. From the point of view of the psychiatrist's own all-important relationship with the patient, the less he has to do with what preceded sentence, the better. The direct help which he can give to the Bench is

limited to a few cases, and is confined within narrow limits. When it is sought, it should be rendered with full consciousness both that his patient and that of the Bench are not identical and that the Bench, while appearing to pay little heed to his advice, so fails only because it has sometimes to sacrifice the psychiatrist's patient in the interests of its own.

Therefore, what advice the psychiatrist does tender should generally go to three plain issues alone. First, whether or not institutional treatment can reasonably be dispensed with; secondly, if so, on what terms; and thirdly, for what reason. That is to say, the psychiatrist should lay claim to his patient, but without specifying how he proposes to treat him when he has him in his care. If these propositions are borne in mind, and if effect is given to them, confidence and understanding between Bench and psychiatrist should increase. Out of this should come that mutual help which may so greatly benefit alike the community at large and those who unhappily offend against its laws.

II. A PRISON MEDICAL OFFICER'S VIEWPOINT

F. H. BRISBY (*Brixton*) *

THE issue of the rendering of mental reports to courts having to deal with delinquents is very much to the fore at the present time and there is a moderation in the views of what might be termed the two parties, *i.e.*, the magistrates and the psychiatrists. A few years ago, many magistrates had no faith at all in psychiatry and, on the other hand, many psychiatrists saw no sense in the law. Today there is a much healthier tendency; each profession is trying more and more to see the other's viewpoint, and to determine to what extent they can render effective contribution to the solution of many of the cases that puzzle the courts. The problem of the extent to which psychiatric disability may result in anti-social behaviour has really only troubled society during the past fifty years. The law of this country has for

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many years concerned itself on the issue of responsibility, and the history is interesting in the light of present-day tendencies and requirements. At first it was only concerned with madness, and early records indicate very clearly that the chief criterion of madness was memory—in other words, by madness was meant dementia. Up to forty or fifty years ago, although the law did not materially change, it showed markedly progressive and recessive phases in its interpretation. The question of treatment did not arise. For major crimes and recidivism the answers were capital punishment and transportation, and the use made of the latter method of solving the problem is indicated by the fact that, between 1787 and 1867, 150,000 convicts were transported and did not return.

When, in 1877, the county and borough prisons came under the Secretary of State, the chief concern of reformers who followed in the steps of Howard was directed to the physical health of inmates, and their sole aim was tackling such issues as gaol fever and nutrition. In that year a Commission, which was the precursor of the prison Commission, was appointed. Its official concern was, as I say, mostly nutrition and diet generally. The only reference to the mental aspect of delinquency was the expression that one justification for imprisonment was that "the struggle for survival was suspended and tranquillity of mind and freedom from anxiety were the characteristics of a prisoner's life . . . imprisonment should be rendered as a deterrent so far as the maintenance of health and strength allowed." Perhaps one can see a glimmer of hope here in the reference to "tranquillity of mind and freedom from anxiety"—a recognition that lack of these factors may have played a part in delinquency.

In those days a court was only concerned with a finding of guilt, but gradually the attitude developed that more important than the issue of whether a man had committed an offence was the issue of "Why?" because in the answer to this question lay the means of preventing recurrence. It is perhaps relevant in this respect that it was only in 1913 that "mental defect" was recognised by law, and even now action under these provisions is only permissive. It was estimated that the passing of this Act cut down the prison population by some 200 a day. There is little doubt that advances in psychiatry have opened up the possibility of greater advances in

the treatment and prevention of certain cases of delinquency, particularly those where mental disability may be a factor, even if it is not the sole cause. By eliminating or diminishing that factor, we may prevent recurrence of the behaviour that has brought the delinquent before the court. Some people, conscious of this fact, have, in their zeal, gone rather far and suggested that the psychiatrist should act as an assessor or adviser to magistrates, so that in every case a psychiatric report should be before the court. This, in my opinion, would not be wise. For one thing, it might well involve the doctor in questions of punishment, where it is necessary, with resultant antagonism on the part of the delinquent towards the profession. Again, we find very often that a psychiatric examination involves in the minds of many the connotation of irresponsibility, a feeling that they cannot help it; and it is not in human nature to strive strenuously against urges that "they cannot help." We meet this frame of mind repeatedly in adolescents who have been sent to us for psychiatric investigation and/or treatment, and one meets it frequently in cases where discharge from the Army followed psychiatric examination. Although many of us suspect that the psychiatric report was used as a convenient means of getting rid of the Army's bad bargain, we frequently meet with the argument: "there must be something wrong with me or I would not have been discharged from the Army."

There is one other aspect of the matter that I think is relevant: a psychiatrist is in essence an optimist, and the optimistic prognoses of many psychiatric reports to court may bring the science into disrepute. It is, however, none the less true that by degrees we are getting near to an efficient conception of the extent of the assistance psychiatry can afford to those who have to dispense justice. Recent investigations have moved very much in that direction; for instance, the provisions of the Criminal Justice Act, 1948. I do not think there are any figures in existence as to the extent to which courts resort to psychiatric opinion before disposing of cases; I am certain that it is used infinitely more than it used to be in juvenile courts, and I think in adult cases also. As for Brixton Prison, although the overall total of reports to courts has gone up during the last five years from nearly 1,500 to 1,800, the actual percentage of reports

to courts from total receptions remains fairly constant at about 17 per cent. of those remanded in custody; but I think it probable that courts are now making more use of referring cases to ordinary out-patient clinics for examination. On the overall picture it seems to me that, judging by the cases we get at Brixton, the courts exercise a fairly wise discretion in deciding those cases that can be effectively assessed at an out-patient clinic whilst on bail, and those where this investigation can more properly be carried out whilst remanded in custody to a hospital, such as we have at Brixton Prison. Briefly, the reasons for courts asking for reports on a man's mental state, so far as we see the issue at this establishment, are as follows: (1) recognition of psychiatric disability, such as insanity or mental defect, and the possible influence of lesser mental disability on the man's behaviour; (2) the greater number of people who have a history of mental illness with treatment in an institution and apparent recovery; (3) the nature of the offence—for example, stereotypy; apparent purposelessness; depravity, or where an individual may have acted completely out of pattern; (4) prisoner's statement: "I don't know why I did it" or, "I had a black-out"; (5) resistance to the efforts of probation officers, or facts indicated during the time the man may have been under the care of the probation officer; (6) to find out if psychiatry could help the social worker in his task.

I think it very important that emphasis should be placed on one aspect of this question—one which the Home Office has repeatedly impressed on courts—and that is, that when a court asks for a "state of mind" report the doctor is entitled to all the relevant information; for instance, school reports, particularly in young offenders. These are very variable in their value; a simple recording of educational attainment is not enough. The reports from the better schools are more helpful: for example, the pupil's reaction to associates, particular bents, his reaction to discipline, and so on. The parents should be interviewed by a trained social worker.

Police reports are very variable and one hopes that one's suspicion, that some police still think that once they have proved their case their work is finished, is not correct. It is of interest that some of the most helpful reports we get are from small towns where the policeman has a personal knowledge of the delinquent.

I do not need to stress the value of probation officers' reports. In furnishing reports there is one difficulty that constantly arises and unfortunately this sometimes applies to reports supplied by doctors. I refer to the fact that it is essential to differentiate between fact and deduction. Probation officers and others are perfectly entitled to include deductions in their report but it is unwise and can be dangerous to disguise them as fact. If a report is going to be of assistance to a court three points should be stressed: (1) the nature and relevance of the psychiatric abnormality; (2) the possibilities of treatment; (3) the prognosis. Probably the greatest difficulty in submitting a report to a court is knowing what to put in and what to leave out, and always the vexed question crops up as to the extent to which it is confidential.

I think one must act on the supposition that no report can be treated as confidential as a right, but courts do, and should, exercise a wise discretion in this matter, particularly if their attention is drawn to the inadvisability of the defendant being made aware of the contents, or of publicity being given to them. A typical difficulty often arises where it may be relevant to point out that an individual is illegitimate, although he may be unaware of the fact; but I am quite convinced that courts will treat such information as strictly confidential. Or again, it may be that the defendant makes unfounded, or at any rate exaggerated, charges against, say, his wife. I do not think any person furnishing a report to court would be deemed blameworthy for omitting anything that would make the case look darker against the defendant, nor will any court ask a doctor to disclose any fact that will point towards the man's guilt in a defended case, but clearly it is infinitely preferable if the doctor omits such information. On broad principles I always feel it is a trifle unwise to enter too much into the psychodynamics of the patient's illness or maladjustment in a report to court. Perhaps here one can express some sympathy with a court faced with a report bristling with polysyllabic psychiatric and psychological terms. So far as possible the doctor's role is to translate these terms into intelligible English.

The second issue that I think should be dealt with in a report concerns the possibility of treatment. The implications of this should

be clearly explained to the defendant before it is embodied in a report, and I think trouble often arises from the defendant not appreciating exactly what treatment implies, particularly in the realms of psychotherapy. It is not only the ill-educated who imagine that treatment for most psychiatric disorders consists of chemotherapy. On this issue of treatment I think it wise to find out whether the case will be dealt with summarily. There is not much use in submitting a recommendation to a court of summary jurisdiction if the case must be committed to a higher court for disposal. Again, it is wise to find out if the patient is going to plead guilty—otherwise you are recommending treatment for a symptom or condition the patient says he does not suffer from; or, alternatively, in your report you may be affording corroboration of his guilt.

Doctors called on to report to courts are very wise to get information from the prosecution or the police. It quite often happens that the defence, I am not suggesting wilfully, mislead them; for example, the psychiatrist may think that he is dealing with an isolated episode, and it rather minimises the value of his findings, having based his diagnosis and prognosis on this hypothesis, if the defendant then asks for possibly twenty or thirty other cases of a similar nature to be taken into account: or the antecedents may show a history of prolonged moral turpitude.

One other point that often causes consternation and tends to diminish the value of reports to court is the extent to which we are plagued by the word "cure." There are few cures in the true sense of the word in medicine, but I have always found that the courts welcome honesty, particularly the doubtful prognosis, and where a reasonable hope of psychotherapy can be held out the courts will often co-operate and take the reasonable risk involved. In other words, if the prognosis is doubtful, say so, but if the experiment is reasonably hopeful, that also should be embodied in the report. A recurrence of anti-social behaviour at some future date is not necessarily really a failure.

It is very important that contributory factors in a man's delinquency should be stressed as such and not as causative; for example, a homosexual may seek escape from his conflict in drink and diminish his powers of control; or an hysterio-neurotic may under

exceptional stress find things too much for him and probably assault his wife. It should always be realised that the ultimate responsibility is the court's, and one should avoid any suggestion of appearing to dictate in wording one's report. One might add that the courts, on their part, should remember that a finding of guilt means that the defendant is punishable but not necessarily to be punished, and that any line of treatment that renders repetition of an offence remote is a legitimate risk. It is of interest in this respect that research is at present being carried out on second offenders. This is particularly wise in those cases where people have been to prison. Of course, one of the troubles today is that we tend to forget that normality is a very broad band, but too many people seem to hold the view that any deviation from perfection in integration of the personality is abnormal or even pathological.

One hardly needs to stress that it is quite useless making a recommendation to the court if the defendant does not agree or consent and this is very often a difficulty met with in cases under section 4 of the Criminal Justice Act, 1948. We made such recommendations in fifty-six cases last year; there were many more where we were satisfied that the patient would derive benefit by expert treatment but section 4 was impossible for one of several reasons. First, he must be suffering from a condition that requires and may be susceptible to treatment. The application of section 4 is dependent on whether the patient has insight and will co-operate—not just accept treatment as an alternative to prison. Secondly, a bed must be available. Thirdly, in most hospitals the patient must be suitable for treatment amongst non-criminal types, whereas, in many cases where section 4 could with advantage be applied, a modicum of safe custody must be available. Fourthly, the medical superintendent must be willing to receive him. It is at times quite depressing to view the number of cases that we have where there is no doubt a man would benefit by mental treatment but we are powerless under the existing state of the law to do anything about it. I find it hard to see that prospective new legislation on mental treatment will do much to tackle the issue of the psychiatrically impaired who are showing anti-social proclivities. Some day we may have institutions where safe custody would be a feature for the protection of the

offender and society, and treatment could be given without the repressive atmosphere and conditions which are of necessity associated with prison. It is exactly from this group of cases that we get the hard core and stage army of recidivists, and I am but repeating the constant wish of all of us engaged in this work for an institution between a mental hospital and a prison.

I know that courts are sometimes perplexed when in a report we detail psychiatric impairment, possibly chronic psychoneurosis or high grade mental deficiency or imperfectly remitted schizophrenia and then, having detailed the man's disabilities and the probable relationship to his offence, we have to add that, as he is not certifiable as insane or mentally defective, we cannot get a bed for him or he is unwilling to accept treatment under section 4. The court has no other option than either to discharge him or send him to prison.

We are conscious of the failure of such reports to give material assistance to the court, but the fault is not ours. I often think we might get a more rational concept of how to deal with these delinquents if we divided them into two classes: those with a nuisance value *qua* society and those with positive danger value. I think it probably is time for some of us to point out that society must carry these social misfits and problems and not blame psychiatrists or the prison authorities for being unable to make "bricks without straw" or, if you prefer it, "silk purses out of sows' ears."

III. THE ROLE OF THE PSYCHIATRIST

P. D. SCOTT (*London*) *

As long ago as 1927 the importance of adequate medical and psychological reports on young offenders was established.¹ This has found cautious recognition in modern legislation—"inquiry ought to be made into his physical or mental condition before the method of

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¹ Report of the Departmental Committee on the Treatment of Young Offenders, 1927. H.M.S.O. (Cmd. 2831).

dealing with him is determined . . .",² while for children and young persons, except in criminal cases, the local authority or probation committee must provide, *inter alia*, information as to health and character.³

Whom to Assess

The question as to whether all or some young offenders ought to be subjected to medical reports may be considered under headings of practicability and desirability. The increasing number of offenders, as well as "chancery" cases, has not been paralleled by a corresponding increase of psychiatrists, so that examination of even the majority is not practicable. The possible undesirable features of too frequent recourse to psychiatric reports are these: since the examination is often associated with remand in custody it might lead to unnecessary curtailment of liberty, increasing "criminal association," magnification of what may be a trivial matter, with perhaps undesirable gratification in certain individuals of exhibitionistic tendencies: it might detract from the obviously desirable need to have the offence dealt with as quickly as possible; some believe that psychiatric examination might reduce the offender's personal sense of responsibility (one can only say that if the psychiatrist is properly trained it should not). Furthermore the process is undeniably expensive and too heavy loads would reduce the efficiency of the assessing team.

On the other hand it is certainly true that it is exceedingly difficult to recognise the small hard core of recidivists, especially in the tense atmosphere of the court room, until their very recidivism makes it obvious. It may be proper to subject the many to certain discomforts if it really helps the few.

These irreconcilable views strongly suggest that some screening device based on prediction tables ought to be considered, and this is especially indicated by the generally faulty powers of prognosis shown by even experienced persons. Thus Dr. Grünhut in his study of "section 4" cases⁴ shows that certain offenders subsequently do well on probation despite gloomy predictions by the psychiatrist. He found, in the material which was the basis of his study, "that

² Criminal Justice Act, 1948, s. 26.

³ Children and Young Persons Act, 1933, s. 35 (2).

⁴ Personal communication.

out of 84 patients with an unfavourable medical prognosis, in 21 cases the probation officer felt he could go on with the probationer; out of 78 cases with unfavourable medical prognosis 42 terminated their period of probation satisfactorily, and out of 105 cases with unfavourable medical prognosis 39 had no further reconvictions within a follow-up period of at least one year." The Cambridge Somerville study ⁵ showed much the same thing with "counselors" and the Mannheim and Wilkins ⁶ study of borstal boys suggests that even house-masters who have been in intimate contact with their charges are not good predictors.

However, prediction tables of real value are easier talked about than realised. No one would doubt that, even now, they can be useful in telling us how many individuals will repeat offences and within what time—they are more likely to be of administrative use than to the magistrate or clinician. So far their main criterion of success or failure is the subsequent criminal record; it is by no means sure whether this is what really matters most in society. No doubt prediction tables could become very much more efficient than clinical assessment but, if this is to be so, it is likely that considerable care will have to be taken in collecting the data. A prediction instrument is limited by the reliability of information fed to it, so that a few questions asked in the court precincts are unlikely to be sufficient. Something like a period of thorough investigation on remand may be demanded by the prediction instrument as by the clinician.

Meanwhile various persons and societies have put forward their views as to which segments of the whole range of offenders are most in need of the limited resources for psychiatric examination. The Brussels seminar of the United Nations suggested homicide, arson, sexual offences and habitual criminality as the best practical criteria. The International Union of Child Welfare suggests any case in which removal from home is contemplated. Mr. J. Watson ⁷: offences of a sexual nature, apparently motiveless offences and "peculiar" offences. Personally I would add first offences occurring in later

⁵ Powers, Edwin and Witmer, Helen, *An Experiment in the Prevention of Delinquency*, N.Y. Columbia Press, 1951.

⁶ Mannheim, H., and Wilkins, L. T., *Prediction Methods in Relation to Borstal Training*, H.M.S.O., London, 1955.

⁷ Watson, J. A. F., *The Child and the Magistrate*, Cape, London, 1950.

life and, in general, not first but second offenders, *i.e.*, those who because they have failed to respond to the first court appearance are presumably not trivial, casual offenders. Howard Jones⁸ states that "Exploratory investigations by a social worker ought probably to be required in all cases, to be followed up by psychological or medical examination where the social history suggests that this would be advisable," which in effect is a sort of screening device such as probation officers could, and do, carry out.

All these criteria are sensible enough, yet each is open to very real criticism. Take, for instance, the sexual offender, whom nearly everyone thinks should be given high priority for psychiatric report. Careful inquiry fails to show that they are likely to be more severe problems than other groupings. Thus L. J. Doshay,⁹ after studying 1,000 boy sex offenders over a period of ten years concludes that "male sex delinquents very seldom return to court or clinic because of another sex offence," and "court treated juvenile sex offenders do not constitute a serious problem to society in later years on the score of sex offences." Similarly Tappan¹⁰ states: "There are few aggressive and dangerous sex offenders in the criminal population. Most of the deviates are mild and submissive, more an annoyance than a menace to the community. . . . Our sex offenders are among the least recidivous of all types of criminals." Selling¹¹ found that of 300 sex offenders in the Detroit Recorder's Court, only seven had subsequent records in the following twenty years. In England, Radzinowicz¹² found that 83 per cent. of sex offenders had no previous sex offences and that 85 per cent. of nearly 2,000 sex offenders had no subsequent sex offence in four years. It rather looks as though sexual offenders are just like all other types of offenders in that 70 to 80 per cent. of them spontaneously cease offending.

Who is to carry out the assessment?

It is commonly assumed, especially by psychiatrists, that the psychiatrist is the man for the job. It has to be recognised, however,

⁸ Jones, Howard, *Prison Reform Now*, The Fabian Society, Jan. 1959.

⁹ Doshay, L. J., *The Boy Sex Offender and his Later Career*, Grune & Stratton, 1943.

¹⁰ Tappan, P., "Sentences for Sex Criminals," *J.Criml.Law & Criminol.*, 42, 3, 1951.

¹¹ Selling, L. S., "Extra Institutional Treatment of Sex Offenders," *Handbook of Correctional Psychology*, New York, 1947, 226.

¹² Radzinowicz, L., *Sexual Offences*, Macmillan, 1957.

that whoever undertakes this task, whether doctor, teacher, sociologist, psychologist, is stepping into a special field and it might reasonably be asked whether it matters very much whether one steps in, so to speak, from the north or from the south—from one discipline or from another.

The tradition of appealing to the doctor may be based in part on the fact that the earliest requirement of the court was to have the grosser conditions, of mental deficiency and of mental and physical illness, ascertained, which was of course a legitimate medical function. Today, however, because of the efficiency of the school health service, it is rare for a child to be remanded for this purpose. Nevertheless, because doctors used to recognise the occasional medical case, the analogy between crime and disease was established and has died hard. Yet it is undeniable that the belief in a correlation between crime and mental illness yearly diminishes. Goddard used to teach that defect of intelligence was an important cause of delinquency, but the careful studies of Woodward¹³ make it doubtful if there is any firm correlation at all. Gruneberg and Pond,¹⁴ in a thorough comparison of epileptic children having conduct disorders, epileptic children without conduct disorders, and non-epileptic children with conduct disorders, suggest that it is unfavourable social environmental factors (disturbed parental attitudes, marital disharmony, restricted and inconsistent handling), which are related to conduct disorders whether or not epilepsy exists. And so with many medical entities.

Of all the samples of criminals and delinquents that I see (all highly selected and likely to be loaded with the apparently pathological cases) in remand homes, hospital clinics and in prison, the proportion in which a psychiatric diagnosis can be made is never higher than 17 per cent., all the rest are personality disorders, "psychopaths," or within the limits of "normal."

The trend of modern research, psychiatric, psychological, anthropological and sociological, strongly suggests that, whatever the causes of persistent delinquency and crime, they are specific and no more than coloured or facilitated by variations of intelligence,

¹³ Woodward, Mary, "The Role of Low Intelligence in Delinquency," *Brit.J.Delinq.*, Vol. 4, Apr. 1955, 281.

¹⁴ Gruneberg, F., and Pond, D. A., *J.Neurol. & Psychiat.* (1957), Vol. 20, p. 65.

temperament, intercurrent mental illness, physique, social class. Some of the most persistent delinquents and criminals are intelligent, physically healthy individuals from materially good homes, in whom there is no suggestion of mental illness either in themselves or in the family histories. The gap widens between psychosis, organic brain damage, mental defect on the one hand, and neurosis, the perversions, criminality and psychopathy on the other.

It has to be conceded that the medical contributions to the understanding of crime and delinquency have been outstanding in this country, especially from the prison medical officers—Charles Goring, Hamblin Smith and Norwood East—while the whole child-guidance movement developed from Dr. William Healy's work in a Chicago court detention home in 1909. The psychoanalytic approach did not fulfil early expectations, yet its contribution, especially in changing attitudes towards offenders and in directing attention away from precipitating towards predisposing causes, has been immense.

The special advantages afforded to the psychiatrist are that he is best able to exclude organic and functional mental illness, that he is essentially and traditionally orientated towards helping the individual (there are always plenty of others ready to defend society), his training is long and wide, and he is most likely to have mastered the technique of interviewing (communicating with) people which is an essential corner-stone of diagnosis. His disadvantages are that he is expensive and that, since too close a co-operation with courts endangers professional confidence, he is not fully effective in this setting.

Just who is to make the assessment is, however, an outdated question for it is generally accepted that it should be through the deliberation of a number of individuals of different disciplines. It is fashionable these days for the courts to ask for "comprehensive reports," which include the contributions of teacher, psychologist, social worker, psychiatrist, with a final assessment and definite recommendation by one of the team. If this ensures team work which did not exist before, it is an excellent development, but if the psychiatric report in any case included all this, as it should, nothing is gained and much paper is wasted.

When should the assessment take place and how long is needed?

The question as to whether the remand for inquiry should be on bail or in custody would seem to be a simple matter of whether the individual is likely to be a danger to himself or others, whether he is likely to abscond, and whether he has somewhere to go. But there are hidden causes; remand in custody may be considered a corrective experience in itself, and it may be more expeditious in terms of waiting lists, time and experienced observers.

It cannot be too much stressed that, in the case of young people, the task is to assess not only the individual, but also his family and social setting so that a great deal of information has laboriously to be collected. Furthermore, somebody in the team must know the characteristics of the institutions or agencies which are under consideration as recommendations. The time required for all this varies very much.

There is rather the tendency to suppose that if only the remand home team is skilful enough and has long enough time in which to study a child, then an infallible answer can be produced. But this is rarely so. Remand homes, centres and prisons should be mainly concerned to see that no serious mistakes in placement are made and that the individual will, in the future, have such help as he needs. The process of study must be started in the observation centre and, in all but trivial cases, carried on afterwards. The period of remand should ideally cease as soon as it is clear what the recommendation as to treatment is to be. This is often perfectly clear within a few days; sometimes, however, further remands have to be requested. The general conclusion is that administrative efficiency in the collecting of reports and the co-operation of the various observers within the observation centre could reduce the length of the required remand.

Provision of effective out-patient clinics, or opening the observation centres for "bail" cases, could surely reduce the number of remands in custody very considerably.

What does the court want of the report?

This is difficult to discover. Some want prognosis or a clear-cut recommendation, some resent this and prefer to assess the

facts themselves. Sometimes, one suspects, nothing at all is required.

Some magistrates are very outspoken in criticism of reports. Mr. Leo Gradwell (*The Times*, March 11, 1958) is reported as saying: "A medical report would be most helpful if it said anything one way or the other instead of talking a lot of nonsense." W. E. Cavenagh¹⁵ says that psychiatrists offer either "a set of opinions based apparently upon some theory of personality development with which the Bench is not familiar (and would regard with the greatest suspicion if it were) or else a short description of the physical appearance of the juvenile, which the Bench knows already only too well, plus the defendant's own views on his case as previously explained by him to the Bench." In the absence of any mental illness or defect, as is usually the case, upon what, in heaven's name, are psychiatric opinions to be based if not on the personality of the offender? Such statements, if they are true, suggest the need for better training of psychiatrists, better training of magistrates and better liaison between the two. What body of knowledge or theory in the study of delinquency is not meet to be regarded with the greatest suspicion? Nevertheless the magistrates continue to request psychiatric reports in increasing numbers.

It has been stated that the court wants to know the strengths and weaknesses of the offender as related to the offence, the quality of his attitudes to society, the values by which he steers his conduct and the possibility of modifying them. But assessing attitudes and values and the possibility of modifying them are not always a reliable guide to outcome. Thus in the boys of the American correctional institutions of Highfields and Annandale¹⁶ their attitudes as assessed before and after training, on eight attitude scales, are surprising. For example, in "acceptance of others" Highfields white boys do best if they are low on the scale. On the attitude to family, negro boys with less favourable attitudes do best, especially at Highfields. Negro boys with low scores on cumulative effects of three scores are more likely to be successful than those with high scores. There is very little evidence that Highfields boys over the length of their treatment

¹⁵ Cavenagh, W. E., *The Child and The Court*, Gollancz, 1959, p. 178.

¹⁶ Weeks, Ashley, *Youthful Offenders at Highfields*, Ann Arbor, Univ. Michigan Press, 1958.

change their attitudes towards family, law and order, and their outlook on life. Yet, of course, many of them "do well."

It rather looks as though we have to face the fact that we do not yet know what attitudes and personality factors are the significant ones.

Take, for instance, the concept of the anti-social psychopath. In the voluminous literature we are taught to expect certain qualities in them. Noyes,¹⁷ for example, says: "Even in childhood the future psychopath usually shows signs of unwholesome personality traits." But unwholesome traits are so exceedingly common in many children (as in their parents) that we are not afforded much help. Again, the psychopath "often conceals his own motives from himself by a superficial rationalisation," and shows "a defect in keenness and delicacy of sentiment." We do not need to find a psychopath for instances of these things. More serious qualities are mentioned by others. Cleckley¹⁸ finds in the psychopath "lack of real sincerity and co-operation in treatment," but unless this is made a criterion for diagnosis, many examples of psychopaths who are genuinely keen to be helped could be cited. Bender¹⁹ indicates a lack of anxiety, inability to feel guilt and a lack of emotional feelings towards anyone. Such a state can be observed, at least for a time, but is very rare, and certainly not a general finding in even undoubted psychopaths. To digress on this point for a moment; recidivist psychopaths in prisons frequently have passed through approved schools; presumably therefore approved schools contain a proportion of psychopaths or embryo psychopaths; yet if one examines the population of an approved school one finds, not children who are unable to make relationships, but children who are so much involved with a highly frustrating relationship already that they are handicapped in their other relationships; even so it is exceedingly uncommon to find an approved school inmate not firmly involved in relationships with other boys or girls, who cannot make a relationship with some staff member or visitor who is willing to help him and knows something of his difficulties. Furthermore, many psychopathic children

¹⁷ Noyes, A. P., *Modern Clinical Psychiatry*, Saunders, 1939, p. 505.

¹⁸ Cleckley, H., *The Mask of Sanity*, St. Louis, 1941.

¹⁹ Bender, L., "Psychopathic Behaviour Disorders in Children," *Handbook of Correctional Psychology*, New York, 1946, p. 23.

and adults feel considerable guilt and anxiety. Similarly with the other criteria of psychopathy—"completely egocentric," hedonistic, opportunistic, unable to see consequences—they exist in psychopaths and non-psychopaths, and none is pathognomonic.

Obviously the category of anti-social psychopaths must be more complex than has been supposed. The following classification may help a little towards the understanding of these discrepancies and may, if experience confirms it, suggest a basis for assessment of offenders. The scheme is based largely on learning theory and takes especial account of the work of experimentalists such as Maier, Patrick and Marquhart, and their work on animals and human subjects.^{20,21,22} "Frustration and motivation are qualitatively different instigators of behaviour," continued failure causes learning functions to cease operating and other mechanisms resulting in stereotyped, unadaptive behaviour to begin. Such frustration and continued failure may occur in a small child's efforts to conform to the impossibly inconsistent demands of a mother, who at the same time exerts great pressure upon him to conform.

1. *Well trained to anti-social standards*

Such individuals behave as they were taught to behave. For example, some families train their children to get what they want irrespective of consideration of others. If a child sees his mother, father and siblings employ force or violence, it is reasonable to suppose that he will tend to do the same. Such aggressive behaviour can be further described under four headings.

(a) The offender's attitude to his conduct lacks any real feeling of guilt or wrongness, but he is unlikely to have an organised defensive system against learning another pattern. The general personality may be sound.

(b) The conduct is likely to be goal-motivated, intended to gain something materially or to obtain mastery or prestige. It is not stereotyped or maladaptive.

²⁰ Maier, M. R. F., *Frustration: The Study of Behaviour without a Goal*, McGraw Hill, New York, 1949.

²¹ Patrick, J. B., "Studies in Rational Behaviour and Emotional Excitement," *J.Comp. Psychol.* (1934) Vol. 18, Pts. I, II, pp. 1-22 and 153-195, 1934.

²² Marquhart, D. I., "The Pattern of Punishment and its Relation to Abnormal Fixation in Adult Human Subjects," *J.Gen.Psychol.*, 39, 1948.

(c) The observer feels that he can understand (feel sympathy with) the offender.

(d) The treatment required is re-training, ideally advising, assisting, befriending with a view to making a positive relationship and to putting across a less anti-social pattern of behaviour. A background of sanctions, and if necessary actual punishment in some form is necessary.

2. Reparative behaviour

The offences are part of a worked-out policy aimed at enabling the individual to adjust to the difficulties of his environment and to the personal handicaps which that environment might have produced in him. For example, certain assaults, breaking and entering, taking and driving away, as effected by assertive, arrogant, touchy individuals who are compensating their feelings of inadequacy, inferiority and passivity; the circuitous defeating of others which swindlers and imposters achieve; some sex offenders fall into this category.

Continuing with the same four sub-headings:

(a) The offender is often positively attached to his mode of misbehaviour, even covertly proud of it. He does not feel real remorse in relation to it even though he fears and regrets the consequences.

(b) The offence is goal-motivated, but less obviously than in 1. The gain is usually in the emotional rather than the material field. The behaviour is not rigidly stereotyped, but may become so by habit formation. The young self-proving offender of this type can get similar satisfaction from other patterns of misbehaviour if they are available to him.

(c) The trained observer is able to understand and feel sympathy with the offender.

(d) The treatment similarly involves a basis of sanctions but much more psycho-therapeutic help is required to get him to understand intellectually and, if possible, to feel the necessity for change. Efforts will invariably be hindered by a well established defence of the reparative pattern. The provision of alternative, legitimate satisfactions is needed.

3. *The badly trained*

Those whose basic training in childhood has been inconsistent or lacking in inducements (material or, more probably, affectionate) producing an individual who is correspondingly inconsistent and weak in character, who can bring little or inconsistent opposition to bear against anti-social impulses. They are likely to show diffuse behaviour and conduct disturbances from early childhood, often with a mixed record of charges—beyond control, stealing, non-attendance at school, etc.

(a) The offender often genuinely wishes he could resist the impulse, but lacks the ability to do so. He is often very anxious and to some extent remorseful.

(b) The offences are goal-motivated, often suggested by others, not well planned. They are notably not stereotyped.

(c) To the observer who grasps the underlying weakness of character the offences are understandable and evoke sympathy.

(d) Treatment is long-term, patient supervision. Sanctions are useful but if too heavy defeat their object. In mild cases ambulant supervision and supportive treatment, including linkage with a non-delinquent group, should be sufficient. In severe cases a sheltered environment with gradual restoration of responsibility is required.

4. *Rigid fixations*

These are the individuals in whom frustration has been so great that the learning process has broken down and been replaced by a fixed pattern of response. In most of the cases we see, even in juveniles, the pattern will have been apparent for many years.

Examples are repetitive stealing, some of the sexual perversions, some of the wanderings. There may be long gaps which may or may not correspond with periods of incarceration, indicating reduction in the level of frustration, but the pattern remains to be reawakened.

(a) The offender either helplessly dissociates himself from the conduct or is genuinely very anxious and remorseful about it. In either case he is unlikely to have rationalised it successfully and is at

a loss to understand it. Many of them secretly believe that they are insane.

(b) The offence is often stereotyped, usually gains nothing other than discharge of tension, is non-goal directed and often committed alone. It is inadequately provoked and, if there is violence, it will be out of proportion to the situation.

(c) The observer cannot feel sympathy with the act, which seems totally outside ordinary experience, though he may feel sympathy with the person's reaction to his conduct.

(d) Little is known about treatment, but experience confirms the complete uselessness of punishment. The greatest hope, at present, lies in the prevention of the building up of frustration of that sort which precipitates the conduct. This must be discovered by careful inquiry for it may be specific or general.

Experimental animals can be cured of fixations by manual guidance and, concerning humans, Marquhart (*op. cit.*) writes: "Guidance is of value for the elimination of an abnormal fixation but not of a habit, and continued failure or punishment eliminates a habit but not a fixation." Theoretically a "no-solution" situation should be reproduced and the individual shown how to deal with it. Perhaps this is what Stürup²³ does when holding a person indeterminately in Herstedvester whilst waiting for an "affective moment," and perhaps also something of this kind happens to Maxwell Jones' patients held in a critical group situation at Belmont.²⁴

The weakness with such a scheme (besides the small matter of its resting only on clinical observation) is that most recidivist offenders show all four of these categories in various combinations. Even so it may be a tiny advance on the prevalent tendency to expect one form of treatment to be effective over too wide a field, and it does offer a rational explanation of the great variety of personalities and "character traits" to be found amongst recidivists and psychopaths, young and old. It corrects, for example, the demonstrable fallacy, repeated from book to book, that psychopaths lack anxiety, cannot make personal relationships, etc., etc.

²³ Stürup, G. K., "The Treatment of Criminal Psychopaths in Herstedvester," *B.J.Med. Psychol.*, Vol. XXV, No. 1, 1952.

²⁴ Maxwell Jones *et al.*, *Social Psychiatry*, London, 1952.

As to the future, prospects are a little brighter in that those who practise penal, sociological, psychological treatments are all so uniformly unsuccessful with the same 30 per cent. of recidivists that the time for taking stock is generally recognised. With some exceptions there is less bickering among the various interested disciplines and more acceptance that each can co-operate in a common effort. Furthermore, the climate is ripe for reforms and for research.

We should all recognise that "assessing the offender," standardising records, ferreting out the meaningful items to record, is an absolute essential if penal and correctional methods are not to be purely empirical and wasteful of liberty and expense. We hope that we shall be provided with adequate observation centres in which to do this work and that those will be centres for exchange of experience, for teaching and for research as well as for routine clinical team work.

A DIMENSIONAL STUDY OF A PRISON POPULATION *

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It is more or less universally accepted that the problem of classification is one of primary importance in the field of criminological research. The question therefore arises, how to classify, since any population could be classified in a vast number of different ways; and in practice authors have often tended to classify on a subjective and *ad hoc* basis. The present author's contention is that classification is a task which is best attempted with the appropriate statistical tools. In other words, whichever technique is the one best suited to secure the most economic and intelligible ordering of a large amount of data is the one which is best suited to tackle the problem of classification. So far as the author is aware, the best technique for this purpose is factor analysis, and in this paper will be described the factor analysis of certain data derived from a fairly large sample of convicted prisoners.

A word of explanation may be appropriate here—factor analysis is a very complicated mathematico-statistical technique, but its basic objective is easily grasped. It is based, in the words of Thurstone,¹ on the assumption “ . . . that a variety of phenomena within a domain are related and that they are determined at least in part by a relatively small number of functional units or factors.” In other words, the attempt is made to account for a large amount of information in terms of a few classificatory principles—which is, of course, a fundamental aim in all branches of science.

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My thanks are also due to the Prison Commissioners for permission to publish this article, which does not, however, necessarily represent official views.

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In the typical factorial experiment, a number of variables in which the investigator is interested is selected for examination. In the first instance, all these variables are inter-correlated with each other, so that a table (referred to as the "matrix") is derived, showing the correlation of each variable with every other variable. The number of such correlations can, of course, be very large. In the present investigation, where 38 variables were selected, no fewer than 703 correlations had to be calculated. It is this matrix of correlations which is factor analysed. What is hoped is that from this mass of correlations, a few factors can be extracted which are themselves independent of each other, and which will provide the explanation of what, so to speak, lies behind the original matrix. In short, we start off with the fact that a number of variables are correlated with each other to a greater or less extent, and if we are lucky we finish up with an explanation of *why* they are so related. Factors are interpreted according to the extent to which the variables are correlated with them. For example, suppose variables A, B, C, D and E were inter-correlated and factor analysed; it may be that variable A had a very high correlation with one of the factors extracted. This would mean that this factor could be largely understood in terms of A. If, for example, A were a test of neuroticism, then the factor might well be a factor of neuroticism. In practice, it is usual to define factors by seeing what is common to all those variables which have a high correlation (in a positive or negative sense) with it. One more piece of nomenclature—it is usual to refer to the correlation of a variable with a factor as its "loading" on, or "saturation" with that factor. Thus, to say that A has a loading of .9 on Factor I simply means that its correlation with Factor I is .9. This account will probably be clearer when the results of this investigation are discussed below. At the moment it is necessary to stress that factors can be regarded both as principles of classification, or as dimensions, since any individual's "score" could be calculated on any factor, so that it would be possible to place the members of the sample studied at their appropriate point on all of the factors extracted. Scientific caution should preclude us from seizing on factors as fundamental "causal" agencies—they may or may not be; the question can never be decided on statistical grounds

alone. On the other hand, it can be claimed of factors that they give us information which is more fundamental than the observed data we started off with. The relevance of this to the problem of classification is obvious.

From the above discussion, it will be clear that factor analysis is one of the methods which it is appropriate to use when we have the situation wherein a large number of items are all inter-correlated with each other. It need hardly be said that this is precisely the picture with which we are confronted in the criminological field. Here we have the situation in which criminal behaviour is found to be related to a large number of variables, each of which are related to each other. Any technique, therefore, which can extract some kind of order from this mass of inter-relationships is likely to be fruitful, even if it means a temporary abandonment of the search for "causes" (the Mannheim-Wilkins prediction study² is a good illustration of this point, though of course factor analysis was not the appropriate method to deal with the multi-variable problem with which those authors were faced).

Method

A population of 797 convicted prisoners, serving their sentences at Wakefield Prison, were the subjects of this investigation. They were a series of consecutive entrants into the prison during the years 1948-49. Every reception on entry was interviewed, and a full history of his career taken, checked by his criminal record, police reports and other documents. A descriptive analysis of this population has already been given in this *Journal* by Dr. Roper.³ The present investigation is, in fact, a factor analysis of the very valuable data collected and coded by Dr. Roper.

Every one of these prisoners was fully documented and the available information codified in summary sheets. There was available information, or ratings, from the following sources: criminal records, police reports, clinical interviews, medical documents and behaviour in prison. (It is unfortunate that at the time this information was collected no psychometric testing, apart from Raven's Matrices, was undertaken at the prison.) In the selection of variables

to be examined two main considerations were borne in mind; trustworthiness of the data and psychological interest—this latter consideration led to a decision to include a number of variables of a subjective nature. Such data were based on information gleaned from clinical interviewing—despite the obvious objections to utilising data of this kind it was felt that the high degree of interest shown in such information (particularly in that relating to early intra-familial relationships) in previous criminological investigations justified their inclusion. Another consideration in selecting variables was the purely statistical one that no variable should be selected that occurred with a frequency of less than 10 per cent. or greater than 90 per cent. (a single exception was “recidivism,” which was included because of its high interest value; in any case, its frequency was only just below 10 per cent.—that is, up to about mid-1953, when this research was begun). The variables it was finally decided to include were as follows:

1. Age under thirty at present conviction.
2. Age under twenty-five at first conviction.
3. More than two previous convictions.
4. Previous confinement in approved school, borstal or prison.
5. Recidivism.
6. History of housebreaking offences.
7. „ „ larceny offences.
8. „ „ false pretence offences.
9. „ „ homosexual offences.
10. „ „ heterosexual offences.
11. Unsatisfactory school record.
12. Poor work record.
13. Heavy drinker.
14. Solitary disposition.
15. Low occupational status.
16. Low occupational status of father.
17. Alcoholic father.
18. Spoilt by father.
19. Rebellious attitude to father.

TABLE I: ORIGINAL MATRIX

	1	2	3	4	5	6	7	8	9	10	11
1. Age under 30	871	411	485	147	497	194	-357	-345	-058	264	
2. Age under 25 at first conviction		834	870	387	598	528	-343	-244	031	364	
3. More than 2 previous convictions			885	357	680	905	214	-498	-053	451	
4. Previous confinement				344	675	678	017	-249	119	432	
5. Reconviction					259	-036	-366	200	-108	353	
6. History of homebreaking offences						403	-658	-878	-415	429	
7. " " larceny "							-230	-758	-404	240	
8. " " fraud "								-896	-807	-563	
9. " " homosexual "									-498	-234	
10. " " heterosexual "										-240	
11. Unsatisfactory school record											
12. Poor work record											
13. Drink											
14. Solitary disposition											
15. Low occupational status											
16. Low occupational status of father											
17. Alcoholic father											
18. Spoilt by father											
19. Rebellious attitude to father											
20. Dominated by mother											
21. Rejected by mother											
22. Inter-parental quarrelling											
23. More than 4 siblings											
24. Inter-sibling jealousies											
25. Disregard of social responsibilities											
26. No fixed abode											
27. Suitable for psychiatric treatment											
28. Disciplinary offences in prison											
29. Mental disorder in family											
30. Low intelligence											
31. Early loss of mother											
32. Early loss of father											
33. History of psychiatric disorder											
34. V.D.											
35. Sentence more than 3 years											
36. Transfer to open prison											
37. M.O's prediction of recidivism											
38. Governor's " " "											

A DIMENSIONAL STUDY OF A PRISON POPULATION

RELATIONS (Decimal Points Omitted)

16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38
482	228	-135	212	-199	191	387	-034	205	729	089	109	605	-057	-039	-020	012	-011	191	-018	-232	496	600
640	364	-204	235	-326	254	478	040	257	714	226	115	622	-029	030	059	113	154	229	166	-306	657	661
315	390	-230	173	-204	225	445	345	482	467	227	061	354	370	240	116	-045	391	090	241	-053	764	729
207	445	-277	245	-153	258	527	160	112	484	168	008	377	-198	-037	139	-020	101	-297	350	-213	733	669
265	489	-299	210	-085	226	246	255	219	107	049	-059	009	-230	078	361	-025	046	264	-230	-066	321	337
477	365	-145	084	-209	138	313	333	291	455	180	-502	429	000	053	193	-008	028	000	-171	-134	012	638
169	329	-126	075	-005	078	351	285	113	275	201	-384	294	093	185	054	049	378	-049	071	036	605	050
-490	-463	472	-045	-021	-240	-274	-334	-219	-110	-164	-559	-331	-230	-478	-111	103	168	-179	-036	240	-076	-273
-324	-302	-062	073	319	-310	-118	-243	-089	-686	085	885	-316	401	-129	296	-097	-217	091	070	-273	-811	-708
315	057	-603	103	-142	276	059	099	215	-230	-047	425	-147	235	222	253	098	-152	-264	112	-263	-451	-244
699	622	-447	008	-046	312	477	358	354	228	084	-175	378	287	996	114	-014	228	142	-126	-221	392	951
877	403	-191	175	-279	212	440	236	721	604	443	-286	455	178	423	-007	-030	336	135	041	-326	705	712
397	495	-080	-056	-130	302	365	180	215	461	367	-364	078	-074	194	250	000	-074	521	-037	-075	525	564
-198	-364	-041	033	195	-149	-321	-123	-103	-642	-267	639	-458	184	-245	068	-072	142	-306	-158	051	-692	-669
730	487	-309	034	-182	334	459	271	329	540	570	-124	475	036	509	224	042	119	342	-125	-352	616	717
447	-449	152	-300	422	392	388	266	372	242	-199	475	-014	520	350	344	-181	191	-140	-245	358	477	
-423	293	-166	380	717	307	344	235	145	-097	180	053	252	278	-418	090	277	-008	-084	355	355		
-724	020	-344	-310	-436	-438	022	-084	063	-107	-158	-225	180	-005	030	-172	033	126	-100	-225			
-139	564	491	-037	401	100	173	274	175	093	-137	407	427	218	161	111	-056	074	220				
-169	036	107	167	-255	-273	319	-061	097	001	-429	-295	072	014	-143	033	-162	-300					
471	340	650	112	313	150	188	024	137	329	270	-057	126	-005	045	133	249						
289	546	363	183	122	280	290	106	-365	122	135	213	191	272	419	466							
783	034	-168	-074	-160	100	198	-035	-163	069	094	-071	028	237	262								
-028	-029	418	059	125	148	-019	-131	259	144	028	088	135	224									
560	-277	497	-101	139	-126	031	141	149	147	-362	543	688										
123	285	-092	082	434	151	-064	289	137	-102	338	331											
-160	507	-231	160	-118	385	-046	189	-291	-462	-085												
-177	141	097	-017	024	071	431	-447	407	510													
260	-402	-063	378	-307	215	-038	-033	079														
-067	032	-016	153	-045	-166	091	203															
254	021	061	019	087	051	109																
-063	056	058	033	-067	035																	
-331	180	013	360	271																		
-372	-165	274	139																			
542	-246	035																				
-496	-582																					
014																						

20. Dominated by mother.
21. Rejected by mother.
22. Inter-parental quarrelling.
23. More than four siblings.
24. Inter-sibling jealousies.
25. Disregard of social responsibilities.
26. No fixed abode.
27. Psychiatric treatment.
28. Disciplinary offences in prison.
29. Mental disorder in family.
30. Low intelligence.
31. Early loss of mother.
32. „ „ „ father.
33. History of psychological illness.
34. Venereal disease.
35. Sentence over three years.
36. Transferred to open prison.
37. M.O.'s prediction of recidivism.
38. Governor's prediction of recidivism.

All the above variables were treated dichotomously—in many cases, of course, the information was available only in a “ Yes ” or “ No ” form. They were all inter-correlated, the measurement of association being Yule's coefficient of association. (This measurement is an over-estimate of the ordinary product-moment correlation.) The resulting matrix was then factor analysed, using Thurstone's centroid method.

Results

Table I shows the original matrix of correlations (it is obviously necessary to fill in only half of the table, since the other half would be exactly the same, the correlation of A with B being the same as that of B with A). Table II shows the loadings of all the variables on all of the three factors extracted.‡

‡ For technical reasons it was not possible to continue the analysis beyond the third factor.

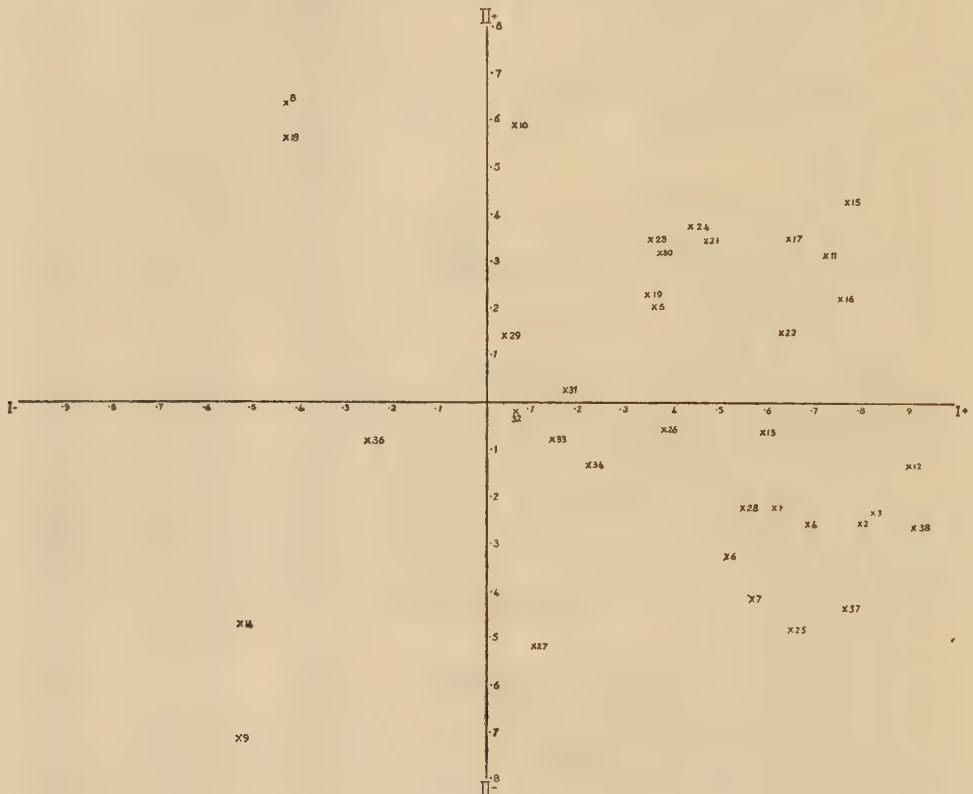
<i>Variable</i>	TABLE II		
	I	II	III
1. Age — 30	607	— 218	093
2. Age — 25 at first conviction	805	— 249	— 064
3. + 2 convictions	816	— 232	— 479
4. Previous confinement (A.S., Borstal, prison)	690	— 260	— 469
5. Reconviction	365	201	003
6. Housebreaking	515	— 317	— 122
7. Larceny	571	— 412	— 267
8. Fraud	— 432	632	— 084
9. Homosexual offences	— 529	— 720	— 198
10. Heterosexual offences	062	593	118
11. Unsatisfactory school record	725	310	— 207
12. Poor work record	902	— 137	156
13. Drink	589	— 065	209
14. Solitary disposition	— 525	— 470	339
15. Low occupational status	783	240	— 486
16. Low occupational status of father	759	225	— 298
17. Alcoholic father	640	337	128
18. Spoilt by father	— 427	556	197
19. Rebellious attitude to father	342	235	252
20. Dominated by mother	— 271	— 136	212
21. Rejected by mother	483	354	104
22. Inter-parental quarrelling	631	153	285
23. + 4 siblings	359	336	286
24. Inter-sibling jealousies	445	368	410
25. Disregard of social responsibilities	651	— 479	221
26. No fixed abode	379	— 052	336
27. Suitable for psychiatric treatment	098	— 514	253
28. Disciplinary offences in prison	548	— 223	182
29. Mental disorder in family	040	143	319
30. Low intelligence	385	316	— 321
31. Early loss of mother	170	030	— 099
32. Early loss of father	073	— 019	131
33. History of psychiatric disorder	141	— 070	— 374
34. Venereal disease	209	139	— 416
35. Sentence + 3 years	018	— 264	— 259

Variable	I	II	III
36. Transfer to open prison	-252	-079	-357
37. M.O.'s prediction of recidivism	775	-435	050
38. Governor's prediction of recidivism	910	-256	125

(Decimal points omitted)

Figure I is a graphical representation of the loadings of the variables on Factors I and II. It will probably make the discussion of results easier to follow.

FIGURE I—Graphical representation of loadings on Factors I and II (numbers refer to numbering of variables in the text)



Factor I

Discussion

This factor is fairly easily interpreted if we adopt the rule of looking at those variables which have high loadings on it. The task will be made the easier if we subdivide these variables:

(a) *Sociological*: Low occupational status, low occupational status of father.

(b) *Bad social adjustment*: Unsatisfactory school record, poor work record (very high), drink, disregard of social responsibilities, no fixed abode (moderately high), M.O.'s and Governor's prediction of recidivism (*i.e.*, that the man will recidivate).

(c) *Criminality*: Under thirty at present conviction, under twenty-five at first conviction, more than two previous convictions, previous confinement, housebreaking, larceny, reconviction (moderately high), disciplinary offences in prison.

(d) *Bad home background*: Alcoholic father, rejected by mother, inter-parental quarrelling, inter-sibling jealousies, rebellious attitude to father (moderately high).

It will be seen that the positive end of this factor contains the features of what it is becoming fashionable to describe as the delinquent sub-culture—low social status, bad criminal record, bad social adjustment, as shown in poor work record, drinking and no fixed abode, and bad early home background. In fact, if the conventionally accepted middle-class virtues of honesty, sobriety and industry are considered, it will be seen that at the high positive end of this factor can be seen the direct negation of all these virtues. On the other hand, if we look at those variables which have high *negative* loadings on this factor, we see fraud, homosexuality and solitary disposition. Clearly, then, this pole of the factor represents middle-class criminality (it should be explained that homosexuals of the type sent to Wakefield are of relatively superior social status). The overall picture of Factor I is, then, that it is a dimension at one end of which will be found the common or working-class criminal, the housebreaker and the thief; while at the other (negative) end will be found the white-collar and sexually deviant, both middle-class criminals. No one, of course, will be surprised to find that the worst, *i.e.*, most anti-social, members of this sample tend predominantly to come from the lower socio-economic strata. The literature correlating delinquency of this type with various indices of low social status is very extensive. So far as these results are concerned, it is interesting to see that they provide confirmation of

Cohen's ⁴ thesis: "The hallmark of the delinquent subculture is the explicit and wholesale repudiation of middle-class standards and the adoption of their very antithesis." The point should perhaps be made that, although we are dealing now with adult criminals, it is obvious that we should find at the high positive end of this factor precisely those who would have had a history of juvenile delinquency.

From the psychological point of view, it is interesting to see that this factor is characterised not only by a high degree of criminality, but by a number of other items indicative of a more generalised social maladjustment. Thus, the high scorer on this factor would not only have, by the standards of Wakefield prisoners, a bad criminal record: as a child he would have been a bad pupil at school, as an adult he would have had a bad work record, he would have attracted the attention of the police as being a heavy drinker, he would have neglected his social responsibilities, and might be so rootless as to have no fixed abode. It thus appears that delinquency is but one symptom of a very general tendency to behave in socially unacceptable ways. This, of course, will scarcely come as a surprise, but it is interesting as indicating that this factor, as well as having the sociological significance indicated above, can also be looked on as a factor of general psychological stability. In this connection, it is interesting to recall the results of Burt,⁵ who quite clearly had the factor analytic model in mind. Burt contended that the differences between his delinquent and non-delinquent groups were largely explicable in terms of just such a general factor. "The general factor underlying instincts and emotions may be called 'general emotionality'; a person whose general emotionality is developed to an exceptional degree may be designated technically 'unstable.'" Healy and Bronner⁶ and the Gluecks⁷ make it very clear that their delinquent groups were characterised by a general emotional instability. But apart from studies on delinquent populations, it has now been very well established by factor analysis—the interested reader is referred to the full summary by Eysenck⁸—that there is in the human personality a fundamental trait associated with such qualities as perseverance, conscientiousness, honesty, strength of will, etc. (or, of course, the converse of these). Eysenck⁹ calls this trait "neuroticism," but obviously one could think of a large number of verbal

equivalents. From the point of view of the present results, the interesting point is that criminal behaviour may well be largely understandable in terms of this factor.

The early home backgrounds. For many decades now it has been the practice, and rightly so, to look for the causes of, or at least factors associated with, crime and delinquency, in the offender's early family history. Whether the information so gained be given a constitutional or psychological-environmental type of explanation, it is clearly of prime importance to seek for these kinds of associations. That is why, in the present investigation, this kind of information was thrown into the matrix despite the disadvantages of having to accept an adult prisoner's retrospective statements about what happened in his childhood. In the event, our results do seem to indicate a fair degree of agreement between such retrospective statements of the prisoners and the kind of results which have often emerged from "on the spot" investigations of younger offenders.

Examination of both this factor and the correlations of the original matrix indicates that for each type of criminality there is a different type of "bad" home background. Thus, with each type of middle-class criminality, fraud and homosexuality, there is associated, respectively, spoilt by father and dominated by mother; whilst in the background of the common criminal the following variables are relevant: alcoholic father, rebellious attitude to father, rejected by mother, inter-parental quarrelling and inter-sibling jealousies.

The common criminal has quite clearly come from a highly in-harmonious home background. As a child he was rejected by his mother, he grew up against a background of constant bickering between his parents, he strongly resented his father, who was a heavy drinker (itself a fact substantially correlated with the quarrelling between the parents), and he himself frequently quarrelled with his brothers and sisters—in short, a degraded background in which love and mutual respect were at a minimum or totally absent, and in which fierce hostilities raged between all the members of the family. A glance at the original matrix shows that all these variables are associated with each other, not always highly, but always positively, indicating a veritable *gestalt* of unfortunate influences. The

implication is that bad homes are bad in several different ways, so that if a man reports that he was rejected by his mother, he will also report hostilities towards his father and siblings. Obviously, many hypotheses could be brought forward to suggest how this kind of background would prevent the normal processes of socialisation from taking place. Two features seem to stand out—the hostility-laden atmosphere and the probable bad behavioural example of the father (but the fact that the socially undesirable behaviour of these men resembles strikingly the reported behaviour of the fathers, whom it would appear that they dislike, suggests that some complex psychological processes are at work).

Andry,¹⁰ in a recent very interesting paper, has produced results which seriously challenge the well-known theories of Bowlby concerning the association between maternal deprivation and delinquency. The gist of Andry's results is that, contrary to Bowlby's hypothesis, lack of paternal affection is the more potent factor. It will be well to look at the present results with the Bowlby theory in mind.

In the first place, it should be noted that variable No. 31, early loss of mother (*i.e.*, by death or separation before the age of twelve), has only a small loading on this factor, indicating that its importance must be very slight. This is, perhaps, not very conclusive, as it does not necessarily follow that such loss of mother resulted in those experiences of deprivation described by Bowlby¹¹ and in any case the loss may well have occurred, in the majority of cases, after the age of five, when according to Bowlby the danger would have been far less. However, one might well have expected this variable to show up rather more predominantly than it has done.

More confirmatory of Bowlby's theory is the fact that mother rejection (No. 21) has a fairly high loading on this factor, indicating that a lack of maternal affection has a substantial association with the anti-social attitudes which this factor presumably represents. Further, this variable seems to be of more importance than rebellious attitude to father (No. 19).

It is one thing, however, to establish that delinquent susceptibility is associated with maternal rejection; another to construct a theory to account for this association. In the first place, the author would

recommend that this affectional lack should be studied not in isolation (which in effect Bowlby does), but in conjunction with other indices of the prisoner's attitude to members of his family. It will be seen from the original matrix (Table I) that its two highest correlations are with rebellious attitude to father (.564) and inter-sibling jealousies (.650). In brief, prisoners who resent their mothers tended also to hate their fathers and to have quarrelled with their brothers and sisters. Thus, feelings of maternal rejection during childhood are seen as part and parcel of a more generalised hostility towards all the members of the family. It would appear that within the microcosm of his immediate family circle the prisoner in his early years looked on himself as being surrounded by enemies, and it is a plausible hypothesis that the enduring anti-social disposition resulted because he transferred this kind of attitude to society at large.

The point the author wishes to make *vis-à-vis* the Bowlby hypothesis is, that mother rejection is not an isolated phenomenon occurring in a household where everything else might have been all right (no one suggests, of course, that Bowlby imagines it is, but it is a fair criticism of his work that he is too much inclined to view this factor in isolation, with subsequent distortions in interpretation). On the contrary, it seems clear that what is happening is that a number of factors indicative of a bad home atmosphere, of which mother rejection is only one, are all inter-acting on each other (this picture is only hinted at in the present investigation, with its comparatively small number of early home variables, but it emerges much more clearly in a study such as the Gluecks',⁷ where it was possible to examine a much larger number of such variables); so that to pick on any one of these, whether it be mother rejection or anything else, and call it *the* most important delinquency-producing factor is, to say the least, a highly arbitrary proceeding. More than that, it is characteristic of the single-cause type of approach, which is rapidly coming to be regarded as misleading and inadequate in the social sciences.

Furthermore, within this interacting complex of early home variables, mother rejection is not even the most important, since it will be seen that alcoholic father (No. 17) and inter-parental quarrelling (No. 22) have considerably higher loadings on this factor.

In this connection, it is interesting to note Bowlby's dismissal of the role of the father: "his value as the economic and emotional support of the mother will be assumed"¹²; but it would appear from our results that the lack of emotional support received by the mother from the father, if the variable inter-parental quarrelling can be so interpreted, is of greater importance than the lack of maternal affection which according to Bowlby should have been paramount. As for the importance of the alcoholic father, this can be interpreted in a number of ways: one could stick to a constitutional inferiority kind of theory, or it could be said that the degrading behaviour of a drunken father impaired the formation of an adequate super-ego, or that the man reporting his father was a drunkard is *ipso facto* expressing strong hostile feelings towards that parent (and indeed men who give such information normally do so as part of a more general condemnation of their fathers). But whichever way one looks at it, it would appear that the personality of the father has had far more to do with the prisoner's social maladjustment than has the rejection by the mother. In this respect, the present results tend to agree with those of Andry, which is the more interesting, in view of the fact that the present author was studying a population very different from Andry's, and using very different techniques. An examination of the Gluecks' results also gives some ground for believing in the relatively greater importance of the role of the father.

In summary, then, these results tend to call in question Bowlby's views on two grounds:

- (a) Neglect of the fact of multi-variate interaction.
- (b) Under-estimating the importance of other unfavourable home factors, notably the personality of the father.

Unfortunately, these results tell us little about the early home background of the middle-class criminal. About all that can be said is that spoiling by the father seems to be associated with the false pretences type of offender, and that domination by the mother is associated with homosexuality. This latter finding sounds interesting, and one could no doubt work out theories, perhaps on psycho-analytic lines, to explain it. But this would go far beyond the

actual results obtained, and in any case the association is not very large. From the negative point of view it is interesting to note that the middle-class criminal tends very definitely *not* to come from the same kind of inharmonious home background as characterises the working-class criminal.

Factor II

This is a factor which—so to speak—cuts across class division. It was seen that Factor I distinguished the middle-class criminals, the false pretenders and homosexuals, from the common or working-class criminals. In Factor II, however, the two middle-class groups are sharply opposed to each other, the loading for fraud being .632, and for homosexuality, .720, and social class (Nos. 15 and 16) has little to do with this factor.

Whatever may be the trait represented by this factor, there is an interesting suggestion that it is a trait closely associated with attitudes to sexuality, to judge by the fact that homosexual and heterosexual offences lie at opposite ends of it. Thus we have here a dimension on which false pretences and heterosexual offences lie very close together on the positive end, whilst at the other extreme lie homosexuality and, somewhat surprisingly, housebreaking and larceny. The problem arises as to the best interpretation of this set of data.

It will be suggested that, as a short title, this factor may be called one of aggressiveness-passivity, although this nomenclature is not very adequate. It is hypothesised that at the *negative* end will be placed those individuals who might be described as schizoid, seclusive, passive, the timorous and the inadequate; at the other end will be found the outgoing, expansive and aggressive types. This contention will perhaps be made clearer by a discussion of the position of some of the variables.

Consider first the evidence from the negative side—it is interesting to note that solitary disposition (No. 14) and disregard of social responsibilities (No. 25) have almost identical loadings on this factor. These two variables are interesting as indicating an attitude to other people. The two patterns of behaviour are very different, as is shown by their strongly opposed positions on Factor I, nevertheless they

have in common a suggestion of social isolation, a turning away from society, a reluctance to accept social bonds. They represent the different types of a-social behaviour characteristic of the middle-class sexually deviant criminal, and the working-class common criminal. The former's withdrawal from society is typified by shyness, inhibition, and lack of companionship: the latter's by an attempt to retreat from social ties and responsibilities.

That homosexuality has the highest of loadings on this factor is good evidence that this dimension has much to do with social withdrawal. The homosexual is understandably a social isolate, and it will be seen from the matrix that this variable is highly correlated with solitary disposition. This may be partly due to the very nature of his deviant urges—men whose behaviour attracts such a large amount of public opprobrium would understandably develop furtive and secretive tendencies. But apart from this, the clinical examination of these individuals leads one strongly to the impression that the homosexuality and the shyness are part of the same kind of personality. It is as though the homosexual's neurotic inhibitions about heterosexual relationships are but one aspect of his generalised inhibited attitude to life. In the accounts they give of their early years, they show noticeable resemblances to the syndrome described by Hewitt and Jenkins¹³ as the "over-inhibited child." Hewitt and Jenkins describe this type of child by such adjectives as seclusive, apathetic, shy, etc., and report that, even by the standards of pre-puberty children, they showed a low degree of interest in the opposite sex. The homosexual in this sample is very often the over-inhibited child grown up and, in fact, is often an over-inhibited adult, *quite apart from his lack of interest in women*. (These remarks apply, of course, only to those homosexuals who are sent to Wakefield, and no claim is made that the above remarks hold good for homosexuals generally.)

Also significant is the fact that suitability for psychiatric treatment (No. 27) is fairly highly correlated with this factor negatively, since it is most generally the practice to offer psychotherapy to precisely the socially inadequate and timorous kind of prisoner (the more aggressive prisoner rarely thinks in terms of psychotherapy).

Some thought must now be given to the way in which Factor II

splits up the common-criminal members of this sample, *i.e.*, those who would score highly on Factor I. Reference both to Table II and Figure I shows that some of the variables having high positive loadings on Factor I fall on the positive side of Factor II and some on the negative. This must mean that the socially maladjusted behaviour represented by Factor I can take one of two forms, and that Factor II is subdividing the working-class criminal group. How it does it has already been suggested in our interpretation of the meaning of Factor II. On the one (positive) side are those whose anti-social attitudes take an active and aggressive form, and on the negative side are those whose behaviour is characterised by a passive inadequacy. Thus on the positive side can be found all the bad home variables, suggesting a background in which verbal, and very likely physical, aggressiveness were more or less the rule. On the negative side can be seen all the variables (approved school and borstal failure, several prison convictions, larceny, etc.) suggestive of shiftless behaviour and a history of petty delinquencies, the behaviour of the social nuisance rather than the social menace (it may seem puzzling that badness of early home environment and badness of criminal record hold opposing positions on Factor II, in view of the undoubted fact that the worst criminals *do* come from the worst backgrounds: but it must be borne in mind that the strong positive association between these two groups of variables is due to their similar position on Factor I; their opposed positions on Factor II show, in effect, what would be the case if the influence of Factor I were held constant or eliminated.) These are the sort of people who crop up so frequently in a common-criminal population, having a passive, irresponsible inadequacy, superficially agreeable, but making social contacts only of the most shallow kind with other people. Roper³ has shown the very high incidence of such inadequate personalities in the population studied in this investigation.

It looks, then, as if there are two ways of being anti-social—to hit out at the environment, metaphorically and probably literally, or to follow the line of least resistance and drift along with a spineless disregard for responsibilities. In fact, the bi-polarity of this factor has probably something to do with the conventional classification of psychopaths into the predominantly aggressive and

the predominantly inadequate. The popular idea of criminals being either weak or wicked is also not irrelevant.

This duality in criminal and delinquent populations is not unfamiliar, and it is of some interest that in this present study of adult prisoners some resemblance can be found to results from studies of juvenile delinquents. Burt,⁵ for example, speaks of a small sub-group of his delinquent sample who show predominantly the passive or asthenic emotions. They are described as "weak-willed," "led easily by the nose," "without any backbone of their own." Allowing for the very different population studied, this description may have something to do with the negative side of our present factor.

No investigators, so far as this author is aware, have been more successful than Hewitt and Jenkins¹³ in isolating two sharply contrasted groups of delinquents. These are described as the "unsocialised aggressive child" and the "socialised delinquent." The former group appear to be vicious, anti-authority, violent and cruel; the latter are characterised by furtive stealing, truancy, wandering from home, bad companionship, etc. The former group are said to be completely unsocialised, the latter socialised within a delinquent sub-group. So far as the present investigation is concerned, the picture is not sufficiently clear to tell whether the negative side of Factor II has anything to do with socialised delinquency as defined by Hewitt and Jenkins, but the positive side may well have something to do with unsocialised aggressiveness (particularly when it is noted that recidivism after Wakefield discharge falls on this side of the factor). Furthermore, Hewitt and Jenkins clearly established that this pattern of behaviour was associated with a rejective home background, and it will be seen that mother rejection (No. 21) has a moderate *positive* loading on our present factor; the hostility-laden atmosphere which, as we have seen, characterises the bad home variables of the present study—all of which fall on the positive side of this factor—resembles the kind of background which Hewitt and Jenkins say their unsocialised aggressives came from.

Lewis¹⁴ has, broadly, repeated Hewitt and Jenkins' classification in a population of English deprived children. The Gluecks⁷ also make the point that the delinquent behaviour of their sample could take either an active or passive form.

In summary, although it would appear that the division by Factor II of the working-class criminals is not so clearly defined as that of the middle-class groups, it would seem that the active-passive (or whatever one likes to call it) dichotomy noticed by other investigators is broadly repeated here. But it should be noted that none of the common-criminal variables has very high loadings, either positive or negative, on this factor, indicating that they have much more to do with whatever trait is represented by Factor I. It will be seen, in fact, that two very important indications of bad social adjustment, poor work record and drink (Nos. 12 and 13 respectively) have negligibly small loadings on Factor II, indicating that these particular forms of socially undesirable conduct are about equally characteristic of the loud-mouthed, aggressive individual and of the drifting spineless inadequate.

Recidivism. It is interesting to note, and not easy to explain, that post-Wakefield recidivism (No. 5) and pre-Wakefield recidivism (Nos. 3 and 4) are on opposite sides of this factor, although with fairly low loadings. It may be that the negative side of this factor has, in fact, something to do with what Hewitt and Jenkins have called socialised delinquency, that the individuals here are basically trainable and have therefore responded to the training and reformative influences at Wakefield; in the past they have been delinquents because they were socialised in a delinquent sub-culture: whereas the post-Wakefield recidivists are more fundamentally anti-social, and hence resistant to any kind of socialising influences, including that of a training prison. But this possibility must be regarded as very speculative.

False pretences and heterosexual offences. The high loading of heterosexual offences on this factor is good evidence that here is a trait which has a good deal to do with aggressiveness, including physical violence. This particular offence is the only one included in the matrix which has a strong suggestion of physical violence (too few members of this sample had committed crimes of non-sexual violence to justify the inclusion of such a variable in the matrix), as will be readily understood when it is pointed out that the majority of this type of offender have committed rape, attempted rape or

indecent assault. Another sub-group have committed incest, with its suggestion of the father forcing his will on the daughter.

The association of heterosexual offences with violence should be seen against the suggestion made above that homosexuality (which, as we have seen, is at the extreme opposite end of this factor) may be strongly associated with timidity. Bearing in mind the general interpretation which has been offered of this factor, there is thus a hint of a link between sexuality and aggressiveness; this is, of course, not a new idea, but it is interesting to see it suggested in a factorial study.

There is, of course, no suggestion of physical violence about the false pretender. If it be asked what he has in common with the heterosexual offender and the aggressive common criminal, it may be answered: a desire to get on top of, and manipulate, his environment. But, conditioned as he has been to middle-class standards, this desire is not going to take the form of physical aggressiveness. Nevertheless, his characteristic traits have this in common with aggressiveness—that they belong to a group of traits which may be called out-going or expansive. These are people who want to get on top; by the standards of this sample the false pretenders are a relatively successful group, of superior levels of employment: often such job success as they have had has been due to their ability to get on with people (bearing in mind that solitary disposition has a high *negative* loading on this factor, it is reasonable to suppose that gregariousness has much to do with its positive end). And it is often easy to see that the fantasy goal which motivated their offence was the desire for “high life,” including ostentatious social success. They wished for prestige, to make a splash in the world. In a working-class milieu this kind of motivation, as Morris¹⁵ points out, could well take the form of physical aggressiveness.

Enough has been said about the homosexuals of this sample to make it clear why homosexuality and false pretences have such strongly opposing positions on this factor. The combined effect of Factors I and II is to show that homosexuals (at least of the type that come to Wakefield) and false pretenders are both very much alike and very much unlike. It is, in fact, one of the chief advantages of factor analysis as a method, that it is capable of bringing out just such facts.

A factor of introversion-extraversion? It is hoped that the author's views on the interpretation of this factor are now clear. Dichotomies such as positive-negative, expansive-seclusive, active-passive, aggressive-timorous, come to mind. It may be asked, why not call it a factor of introversion-extraversion, in view of the interesting suggestions of Eysenck¹⁶ and Franks¹⁷ that this factor has much to do with criminal behaviour? Some evidence can be brought forward to support such an interpretation. Homosexuals are probably very introverted; false pretenders are very extraverted; solitariness and suitability for psychiatric treatment are likely to be associated with introversion; recidivism and low intelligence with extraversion.

Nevertheless, it must be pointed out that a number of variables fall on the so-called introverted side which clearly denotes anti-social behaviour or disposition (Nos. 1, 2, 3, 4, 6, 7, 25, 28, 37 and 38), including frequency of criminal conviction. Now it is believed that introversion is a trait which is strongly associated with a readiness to be socialised, and to introject accepted norms. Which being so, it seems very questionable to call a dimension introversion-extraversion when a large number of anti-social variables falls on the allegedly introverted side. The author is reasonably certain that the kind of dichotomy he has suggested to interpret this factor is something different from introversion-extraversion.

Factor III

This factor may be only a statistical artefact. If an interpretation must be made, it may be suggested that it is a factor of ease of institutionalisation, separating those variables associated with amenability to prison discipline, from those associated with trouble-making and kicking against the pricks.

The suggestion is that the negative loadings represent the "amenability" variables. Among these are, for example, "more than two previous convictions" and "previous confinement"—the implication being that men who have had the most experience of imprisonment will settle down the more readily to their present sentence (it will be remembered, of course, that the influences of Factors I and II have been eliminated). Relatively high negative

loadings are also found in the case of "unskilled workers" and "low occupational status of father"—and here the somewhat cynical explanation can be offered that men used to poor living conditions outside would settle down the better in prisons, if only because conditions therein are likely to be as good as, if not better than, what they have been used to as free men (perhaps the same explanation of poor living conditions outside accounts for the fairly high loading of venereal disease on this factor—certainly no other explanation is readily forthcoming of why men with a history of venereal disease should be better prisoners). There is also a suggestion that the less intelligent men adapt themselves better to prison. It is, of course, very understandable that "transfer to open prison" should be on the "amenable" side of this dimension—since it is self-evident that only the better-behaved prisoners would be sent to an open camp.

No very clear picture appears on the opposite side of this factor, except for a small correlation with "disciplinary offences in prison." All the bad home variables are on this side of the factor and it may be suggested that an inharmonious early home background is associated with a generalised inability to settle down in any kind of social milieu, even that of a prison. It is also, perhaps, worth noting that "No fixed abode" is found on this side of the factor—it is not improbable that rootless and restless men should chafe at the highly circumscribed environment of a prison. However, it is not possible to feel very much confidence in this interpretation, and further discussion of this factor hardly seems worthwhile.

Summary

A factor analysis was carried out on thirty-eight variables relating to a population of 797 convicted prisoners at Wakefield Prison. The variables related to criminal record data, behaviour in prison, social adjustment and early home background. The two main factors were extracted:

(a) A working-class-middle-class criminality dimension, contrasting thieves and housebreakers at one end with false pretenders and homosexuals at the other. The factor is characterised by badness of

criminal record, bad social adjustment and inharmonious early home background.

(b) A factor contrasting a positive, outgoing, aggressive and expansive pattern of life with one that is passive, seclusive, inadequate and timorous: this factor sharply differentiates homosexuals at the negative end from false pretenders and heterosexual offenders at the positive end.

This investigation is relevant to the problem of classification inasmuch as the two main factors represent an intelligible and economic ordering of the large number of inter-relationships which constituted the original data.

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JUVENILE COURTS: THE PARENTS' POINT OF VIEW

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Methodology

IN the January 1959 issue of *The British Journal of Delinquency* there appeared a descriptive analysis of the juvenile court from the juvenile's point of view.¹ It was suggested here that a similar study be made of parents' attitudes. The present study is a preliminary inquiry into this field. Dr. Scott warned his readers that "it must not be expected that juveniles involved already in court proceedings could be easy subjects to investigate." The same may be said of parents. This study too is likely to give only "a few hints rather than certainties" since it also relies on the initiative of the respondent.

The sample was selected by the Warden and leaders of a Settlement drawing up a list of present boys' club members who they thought had been before the courts. The original list of fifty-one names was finally reduced to thirty-seven owing to boys leaving the club, illness, holidays, change of address or error in selection. The final sample included (a) mothers only, interviewed in the absence of the husband; (b) fathers only; and (c) mothers and fathers interviewed together. Strictly speaking, then, the sample is representative only of a group of parents whose boys attend a particular boys' club. Informal and descriptive as the study is, it was thought worth while to look at the responses of certain groups in isolation. These groups are (a) fathers, where they were interviewed in the absence of the mother; (b) those parents whose children had been removed from home for institutional treatment; and (c) parents appearing with their children in court for the first time.

None refused to co-operate and this was probably due in part to the fact that the interviewer is a helper at the Settlement and is

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¹ Scott, Peter D., "Juvenile Courts: The Juvenile's Point of View," *Brit.J.Delinq.*, 1958-59, 9, 200-210.

thus well acquainted with some of the parents and at least known to the rest. Though it was thought best at this stage to rely upon the respondents' initiative for information, the interviews were not entirely unguided since it seemed necessary to give parents some idea of the sort of information required. To this end the waiting period, the fairness of the court and its general atmosphere were presented to respondents as the sort of topics upon which they might give an opinion. Certain information given here is not directly concerned with the workings of the court, whereas other information, directly relevant, was not obtainable through such an informal interview. For example, the general outlook and attitudes of certain groups of parents are discussed and there is a section on parents' views as to why their children got into trouble. On the other hand it was impossible to gain an adequate picture of respondents' understanding of formal court procedure.

The Court

(a) First impressions

Only 15 per cent. of parents appearing in court for the first time as against 24 per cent. of the total sample said they felt nervous on entering the court. Naturally, those who think that their children might be sent away from home would be most nervous and these parents are likely to have been to court several times. Nervousness ranged from "didn't like it" to "very frightened, caused me to go into hospital with the shock." One mother traced the death of her husband (through a somewhat devious route involving pneumonia which "brought on" cancer!) to her son's one and not very serious appearance in court. A mother who had appeared in court eleven times with various members of her family and treated their delinquency as a matter of course said she was unable to say much in court because, even now, she felt confused and nervous.

Asked whether they thought the general atmosphere of the court too friendly and easygoing, too formal and strict, or all right as it was, sixteen respondents subscribed to the last view, five thought the court too friendly and only two thought it was too formal. Twelve of the thirty-seven respondents had something adverse to say about the waiting period and only two realised the impossibility

of keeping to a close schedule. "Should have better arrangements so we don't have to wait all day." One of three who complained of missing wages said his employer had told him that he might just as well stop away from work altogether the rate he was going! Though provisions for waiting at at least one of the courts involved are quite inadequate and uncomfortable, little mention was made of this. One parent suggested that "those who are really in trouble should be kept separate from those who are there for small things like truancy," and another thought that refreshments should be available. However, it seems that the waiting period does not affect parents either in the same way or as seriously as it evidently affects their children.²

(b) Principles of justice

It was difficult here to distinguish between what parents thought the principles of the court *were* and what they thought they *should be*. By far the most popular interpretation of the way in which the court disposes of cases involved the concept of graded or cumulative punishment. Seven of the nineteen respondents who mentioned principles took this view. "They give them a conditional discharge first, then probation, and then if they keep on, well, they have to send them away, don't they?" Some parents showed surprise because the court order did not fit this pattern. "Thought there'd be a fine for a first offence," or "John had never been in trouble before and he gets three years. His mates have been up hundreds of times and all they get is probation."

The misinterpretation of principles here shown is not so much, on the practical level since, as Mrs. Cavenagh points out, "It seems to be well understood by most young offenders that there is a strong risk of being put away in approved school if probation has already been tried, especially if more than once, whilst the risks amount almost to a certainty if one has already had a spell of detention before making the final, fatal slip."³ Rather there is misinterpretation of the motive behind the order. The parent seems to accept the pattern

² *Ibid.*

³ Cavenagh, W. E., *The Child and the Court*, p. 105 (1959), Victor Gollancz, London.

as one involving cumulative punishment rather than the application of varying methods of treatment upon a persistent offender.

Of the nineteen respondents who mentioned principles, eight regarded the nature of the court order as punitive, as against three who thought that reform was taken into account. One parent suggested that the purpose of the order was to "frighten boys into going straight," whilst another thought that "you couldn't ask for fairer treatment" if your boy was "let off" with a conditional discharge the first time, given probation the second and sent away to borstal on the third conviction. By those who recognised the reformatory element, the "very thorough examination of the case" and the informality of court proceedings were emphasised. One parent thought that boys were "only sent away if the home was unfit."

If the Children's Act, 1933, is to be interpreted as laying down that welfare and treatment are to take precedence over punishment and judicial procedure in the juvenile court, it is by no means clear that the parent either understands or, more important, is in sympathy with this view. As Dr. Scott suggests, "like the parents, delinquents are heavily in favour of punishment and strict law." Over two-thirds of those who said what they thought the principles of the court *should be*, talked entirely in terms of punishment. "The punishment should fit the crime." "The bad ones should get a heavier punishment." These were typical remarks. Parents are as aware as the authorities that "that part of the court's work which consists in deciding on the evidence whether a defendant is guilty or not is . . . at a minimum in the juvenile court,"⁴ but they do not seem so happy about it.

(c) *General confidence in the court*

Whereas over 50 per cent. of the total sample indicated a general confidence in court decisions, this view was expressed by only 12 per cent. of parents whose children had been sent away for institutional treatment. Both these figures contrast strongly with the 92 per cent. confidence among those appearing in court for the first

⁴ *Ibid.* 86.

time. Clearly, there is close coincidence between confidence in the court and approval of the court order. In criticising the court, the most common arguments were that the police have it all their own way (9 respondents); that either the parent's or the child's views are not taken sufficiently into account (9 respondents); that punishment was out of proportion to the crime committed (5 respondents); and that findings and therefore orders are based on insufficient evidence (12 respondents). That a plea of guilty was virtually obligatory was a commonly held belief. "There's no pleading not guilty in the juvenile court" says a father, and another believes "one might as well plead guilty in the first place; it only goes against you if you don't, whatever the facts." That the magistrate "doesn't do her job of sifting the evidence properly" and that "no one could prove anything" were typical remarks. That so many parents feel unimportant and ignored is perhaps most serious and if this is coupled with the idea that the magistrate sides with the police—"the police have it all their own way"—then there is little likelihood of the co-operation between parent and court so necessary for successful treatment.

Court Personnel

(a) The magistrate

That juvenile court magistrates are not trained lawyers does not seem to worry parents, possibly because they are unaware of the fact. But that they are chosen for their "love of young people, sympathy with their interests, and an imaginative insight into their difficulties"⁵ would be challenged by some. Twenty per cent. of those who mentioned the magistrate made unfavourable criticisms. "Old women"; "spinsters" who "shouldn't be allowed to deal with children"; "half of them haven't had children themselves." Given such factors as age, appearance, speech, manner and the fact that many magistrates are women, it is understandable if parents sometimes doubt their possession of a "real appreciation of the surroundings and way of life of the type of child who . . . finds his way into the juvenile courts."⁶ Relations can, of course, be improved

⁵ Children's Act, 1908.

⁶ Royal Commission on Justices of the Peace, 1948.

by individual magistrates, but it does seem to be, to some extent, a matter of social class. "All they've got is money and position" says a father and another believes that the magistrate "sums boys up on what sort of clothes they wear." Opinions about magistrates vary considerably from one group to another. Whereas about 40 per cent. of all parents who mentioned the subject made unfavourable comments, over 70 per cent. of both fathers and parents whose children had been removed from home had similar views as against only 10 per cent. of parents appearing in court for the first time.

(b) *Police*

Fourteen of the twenty-five respondents who mentioned the police thought they were dishonest. They "try to frame kids" or they can "get away with anything in the courts." Ten respondents stated frankly that they believed the police lied in court. "The court always believes the police, so they can say what they like." The police "often make things up if there's insufficient evidence."

Concerning their conduct outside the court, ten respondents thought the police decidedly biased against the young. "They spend their time picking up young kids for nothing." "Nothing" may be interpreted variously as indicating a sincere belief in a child's innocence or an opinion that the offence was not serious. One parent complained that his Jimmy (who has a very long criminal record behind him) had done two and a half years' borstal for "nothing." "Why! he only assaulted a policeman. I've done it myself."

Some criticism was more constructive. Several thought the force "is not what it used to be." They "spend too much time bringing youngsters to court instead of clipping them round the ear'ole and telling their dads." Another father said "they've lost the old 'cuff on the ear' touch, it's all 'up to the nick' now." Not all criticism was derogatory, however; six out of twenty-five respondents showed generally favourable attitudes. "Wouldn't like to be in their shoes." "They've got a hard job to do." Some parents spoke from personal experience. "The police comforted me when my Lenny was put away for a week." Another mother was full of praise for a local policeman who "tried to warn Bobby about getting into trouble." The police were most unpopular among

fathers and among parents whose children had been sent away, but it is impossible to say how far this prejudice existed before the delinquency and how far it is a result of it.

(c) *Probation officers*

The popularity of probation officers contrasts strongly with that of police and magistrates on the one hand and with probation as a method of treatment on the other. Eighty-three per cent. of all those who mentioned the probation officer, 75 per cent. of the father group and 57 per cent. of those whose boys had been sent away from home, had generally favourable attitudes towards him. Typical remarks were "a real gentleman," "knows my boy as well as me," "gave a good report to the magistrate" and "very helpful."

That the probation officer has a powerful influence on the disposal was believed by many. "He seems to know what's going to happen to the kid even before the case is proved" complained a father. A mother was sure it was "his fault he was sent away." On the other hand the majority were more sympathetic. "He's got the hardest job of all. He's in between. He has to trust the boy and speak for him and take the can back if he lets him down." That the probation officer is supposed to be the delinquent's friend, and yet, at the same time, an officer of the court is probably recognised by most; the majority seem to judge him in his former role.

That the probation officer seems so much more popular than either the magistrate or the policeman is probably due to the fact that he, unlike the other two, is able to establish an informal relationship with the delinquent and his family. Under these conditions judgment depends upon personality rather than office. Where the relationship is formal, judgment is likely to be based on a stereotype of office—in this case a stereotype of authority.

The informality of the interview made it impossible to ascertain how far parents were able to identify the offices and functions of other court personnel. None queried the presence of these other people nor was there any suggestion that the court was overcrowded.

*Methods of Disposal**(a) Probation*

Considering the popularity of probation officers, it is surprising to find such little sympathy for probation as a method of treatment. Of the twenty-one respondents who mentioned the subject, only six showed a decidedly favourable attitude, another six were antagonistic and nine were uncertain. All those decidedly against probation were among the group of fathers interviewed alone. One father feared that his son might "mix and meet up with bad boys at his (the P.O.'s) office." A second felt that probation was only effective so long as the order lasted, while a third objected to the inquiry functions of the officer. "I know what they come nosing around about." It may of course be this function that leads some parents to think that it is the probation officer who decides what should be done with the child. Though several parents suggested that probation brought some discipline and regularity into a boy's life, one parent could not see how the probation officer, any more than the parent, could keep sufficiently close supervision on a child in this area. A father of a family with a long history of delinquency behind it said he thought probation a good thing but did not like his son's officer and therefore "wouldn't let him into the house." (The son had already warned the interviewer to keep away from his father if he did not want to be thrown down the steps!)

It is not clear to what extent parents understand the spirit of probation; that it is an alternative to punishment. Several of those who regarded the court's principles as involving cumulative punishment looked on probation as a step on the ladder. There is no evidence from the information available that parents regard probation as a "let off."

(b) Fining

"Useless, parent has to pay anyway . . . hard on them, nothing to the kid." This parent seems to be under the impression that the magistrate meant to penalise the child but should have known that this was a stupid way to try to do it. Maybe this was the magistrate's aim, maybe not, but according to the law the parent or guardian is normally obliged to pay a fine imposed on a juvenile.

This assists the magistrate who may feel that it is the parent rather than the child who should be penalised. None of the five respondents who mentioned fining (and had had to pay a fine in court) seemed to have a clear idea as to whom the penalty was aimed and all were against it as a method of disposal. "Couldn't let Charlie pay, he'd only be tempted to steal the money." Though fining is used considerably less in the juvenile than in the adult court, its use in the latter has met with considerable success in the most surprising places. It would be a pity if its efficacy were reduced in the juvenile court simply because the intention of the magistrate was not made clear to the parent.

(c) *Institutional treatment*

The approved school is often thought to have the unfortunate reputation of being the last resort for the worst delinquents. It stands at the top of the punishment ladder. However, of the sixteen respondents who mentioned the approved school, only six were decidedly against it, whereas nine were in favour. Indeed, three of this latter group were parents whose sons had actually been sent to one. Four parents remarked on the security, regularity and discipline necessary for boys who never got these things at home. "Very good place for kids with bad homes; the best place for them; should be more of them." On the other hand the schools were described as "a breeding ground for criminals," and one father complained that an approved school order "breaks up the family and upsets the mother who, after all, is the most important person in the world." (It was within a month of recording this statement that the author saw this man's wife and youngest son locked out of their house at 2 o'clock in the morning. In fairness to the man it should be added that a few months previous to this incident the wife had done exactly the same to him!)

It is clear from the remarks of respondents, of the children themselves and of other local people, that there is an impression that an approved school order is made for a determinate period of three years. Despite the probable efforts of magistrates and school staff, several respondents came to the conclusion that an early release was the same thing as remission of a prison sentence. A greater degree

of co-operation between home and school might be effected if the exact nature of an order was made absolutely clear to the parent in the first place.

Of the nine respondents who mentioned other types of institution, three were in favour of the short, sharp shock of the detention centre while two fathers whose sons had been to borstal were convinced that the training had set them on the right road. At the same time, one father was very critical of the detention centre—"No good, come out worse than they went in"—and another two seemed to regard borstal simply as a prison where a boy did a "stretch."

(d) Remand

Only one in fifteen respondents gave any indication of understanding the true function of remand. Eight clearly thought the home was a penal establishment: "All first offenders should be sent there for a short period." A father who specially asked the superintendent to "treat David rough" was disappointed with the reply he received, but still maintained that the homes "should be tougher." A mother complained that the home was "too soft; the boys come out laughing."

It appears, then, that many parents have either a wrong or confused interpretation of all types of disposal; probation, fining, approved school orders and remand. The co-operation of the parent, of such importance in so many cases, might be increased if magistrates could make even greater efforts to remove these misunderstandings.

Causes of Delinquency—Parents' Views

Twenty-eight of the thirty-seven respondents offered their views on why their children got into trouble. The most popular "causes" were the neighbourhood, bad company, the impossibility of constant supervision by parents and the bad luck of getting caught for what everyone else does and most get away with. Twenty of the twenty-eight blamed the neighbourhood and bad company. There is the

attraction of the gang which might be met up with in the street, the youth club or the café. Some parents accepted this "ganging up" and its consequences as normal, while others felt that their boys were too easily led. Though a few parents blamed bad housing and recreational facilities, coloured immigration and the monotony of work, for most the cause of their children's delinquency was the presence and influence of other bad boys in the neighbourhood.

Eleven respondents brought up the subject of parenthood and only two were ready to accept any responsibility for their boys' delinquencies. "All this talk about the parents being to blame is a load of nonsense. Some of the worst criminals come from the best homes. I'd never think of stealing." Another parent pointed out that "you can't chase the kids about all the time." An Irish mother put it more dramatically: "A woman has got to be a mother of God to bring up a child around here." Several parents quickly revealed the lack of consistent discipline in the home: "I can't understand it," says a mother, "we give him everything he wants." And another parent says she has "tried everything: being kind, keeping them in, walloping them." (The author recently saw the twelve-year-old son of the mother last quoted "going up to the all-night café" at 12-40 a.m.!)

Nearly a third of the respondents took the view that delinquency was quite a normal phenomenon in the district and that therefore the delinquent was quite a normal person. Delinquency is "high spirits" or "sheer devilment." "He never stays still, takes all life as a joke," says a mother. A father explains his son's offence as "just a boyish prank. He had no need to steal, particularly a tin of beans!" The only difference between a delinquent and anyone else is that the former got caught for wrongdoing while the latter did not. "Some of them get caught and some of them don't; that's all there is to it." Another father pointed out that "it's so much a matter of luck. Punishment's for getting caught, not for wrongdoing."

Neighbourhood and Parents

The area from which the respondents come is entirely working class. Juvenile delinquency rates are very high and there is perhaps

less opportunity for outside influence here than in many other areas, since it is bounded by four major lines of communication and does not itself possess a large shopping or entertainment centre, nor is there a single bus route. Occupations of heads of households in the sample are almost entirely unskilled, typical jobs being general dealing, bookmaking and lorry driving.

Within the sample, two distinct groups stand out. One consists of those coming from families where delinquency is common among several members, and the other of parents from families where delinquency is rare. Respondents in the first group seemed to regard their families' position as normal, as nothing to boast about and as something brought upon them not by themselves but by the police or the courts. In contrast to this the latter group are disturbed by a case of delinquency in the family and are more ready to blame their children (though not themselves) rather than authority. This is not to say they are entirely uncritical of authority, but they are inclined to be more compromising than the former group. For example, though the waiting period was sometimes long and inconvenient, "you can't blame the courts if you have to wait. The court can't run to a timetable; it's not their fault." Again, though the magistrate may not always sift the evidence properly, "anyone can make a mistake." The police may be out for promotion, "but then so are other people."

The parents of families where delinquency is common may frequently disagree with court disposals, but in general they believe in harsh and punitive methods (even for their own children—if they had been guilty). "I'd bring back the cat, even if it was my own son," said a mother. "The nick's too easy now. In my day you got the birch for smoking," said a father speaking from experience. Parents of non-delinquent families, on the other hand, tended to have some sympathy with the concept of reform.

Conclusion

The major problem emphasised by this inquiry is the reconciliation of the juvenile court's two roles of court of justice and treatment tribunal. At the moment, disposals depend upon a curious mixture

of reform and punishment and it is hardly surprising that many parents neither understand nor are in sympathy with them. Theoretically, probation is an alternative to punishment; remand provides an opportunity to make clinical inquiries; and approved schools and borstals are places of training and reform. As such, all need the understanding and co-operation of the parent. In practice, however, they are regarded by many parents as so many rungs on the ladder of cumulative punishment and as such are not likely to encourage the right kind of co-operation.

This attitude may, to some extent, be due to the impressions left by the court, but it is probably also due to the parents' belief in the punitive approach. It is clear that many parents regard their delinquent offspring as normal and therefore responsive to normal forms of social control: namely, retributive punishment for wrongdoing. If the courts continue to elevate the concept of "treatment" at the expense of formal "justice," they may further alienate the parent by emphasising the abnormality of her offspring and by using a form of control which she does not understand. This is not to suggest a return to more punitive principles, it simply indicates that the court and the parent are thinking and acting, to some extent, in two mutually unrecognised worlds. If the juvenile court is to advance away from the punitive towards the clinical approach, it must carry the parent with it. If it does not, the advance will do more harm than good.

CURRENT SURVEY

RESEARCH AND METHODOLOGY

CURRENT RESEARCH LXXII

(Continued from Vol. I, p. 56 et seq.)

THE MEASUREMENT OF DELINQUENCY

(1) *Name of University Department supplying the information:* University of Pennsylvania, Department of Sociology, Philadelphia, Pa., U.S.A.

(2) *Subject of Research:* The measurement of delinquency, leading to the establishment of delinquency indices.

(3) *Under whose auspices is the research being carried out?* Department of Sociology, University of Pennsylvania, with the help of a grant from the Ford Foundation. *Research workers:* Professors Thorsten Sellin and Marvin E. Wolfgang, with several part-time research assistants.

(4) *Commenced:* September 1960. *Completion expected:* 1963.

(5) *Publication:* Results to be published.

NOTES

RECENT TRANSLATIONS OF FOREIGN PENAL LEGISLATION

I. *Law in Eastern Europe.* A series of publications issued by the Documentary Office for East European Law, University of Leyden. Edited by Z. S. Szirmai. No. 3. *The Federal Criminal Law of the Soviet Union and the Union Republics.* Introduction by J. M. van Bemmelen. Russian text with an English translation by F. J. Feldbrugge. (A. W. Sythoff, Leyden. 1959. 157 pp. No price.)

THE first English translation of the Soviet Federal Penal Code of 1926 (with amendments up to December 1, 1932) was published by H.M.S.O. in 1934. Since then, very important further legislative changes have taken place which make this publication by the University of Leyden particularly opportune. Those familiar with the Russian language will welcome the addition of the original text, and the significance of the changes is fully explained in Professor J. M. van Bemmelen's valuable Introduction. Only the most important of them can here be mentioned, but they give a clear picture of what v. Bemmelen rightly calls the "reversion to more classic ideas" in the new

"Basic Principles of Criminal Legislation and Basic Principles of Criminal Procedure" enacted by the Supreme Soviet at the end of 1958. The class character of the Code of 1926 has been somewhat disguised, and the rights of the individual citizen are to some extent recognised and protected. Whereas under the Code of 1926 the aim of Soviet penal legislation was exclusively to protect the socialist state of the workers and peasants, now the protection of the person and the rights of the citizen are also mentioned (s. 1), and section 7 defines a crime as a socially dangerous action forbidden by criminal law and directed against "the Soviet political or state system, the socialist economic system, socialist property, the person, political rights, right to work, property or other rights of the citizen. . . ." The principle *nulla poena sine lege*, discarded by section 16 of the previous Code, has been reinstated in section 3 of the new Rules, and the use of analogy is no longer admissible—a development which v. Bemmelen traces back to an address by Stalin of 1935, i.e., to the pre-Khrushchev era. On the other hand, he considers that the punishment of acts which, without representing an attempt in the traditional sense, are "preparations of a crime" (s. 15) invalidates the greater security bestowed by article 3. This, however, is not necessarily true; a decision such as the English one in the case *R. v. Manley* (1932), which created the offence of "public mischief" by judicial decision, for example, would be prohibited by section 3 in spite of section 15.

The concept of "guilt," banished from the Code of 1926, is readmitted in section 3 and also in sections 8 and 9. The lower age limit of criminal responsibility, reduced in 1935 from sixteen to twelve, is now sixteen again (s. 10), although with the important proviso that minors between fourteen and sixteen are still responsible for most of the more serious crimes and also for offences such as theft and malicious damage if they have serious consequences. However, in the case of minors under eighteen the court can use "coercive measures of an educational character" instead of punishment if the reform of the offender is regarded as possible without it and the crime does not imply a grave social danger. Whereas the definition of "non-imputability" on account of mental abnormalities (s. 11) has remained unchanged in spite of criticisms, considerable modifications have been made in the provisions dealing with penalties (Part III). "Measures of social defence," so prominent in the Code of 1926, have largely been replaced by penalties, and the objects of punishment, defined in section 20, include retaliation side by side with reform, re-education and general and special prevention. The aim of punishment, however, is not the infliction of physical suffering or the humiliation of human dignity (s. 20 II). The death penalty is retained, as before, "as an exceptional measure until its complete abolition," especially for murder under aggravating circumstances (as defined not in the Principles but in special legislation), for high treason, terrorist activities, banditism, etc. (s. 22). There is no death penalty any more for persons under eighteen, whereas under an

Act of 1933 it could be inflicted on persons over twelve. The measure of social defence declaring the accused to be an enemy of the people has disappeared; exile and banishment are still available for a maximum period of five years (s. 24), but "one gets the impression that the intention is to carry them out in a somewhat more humane manner than in the past," writes v. Bemmelen, adding that "the proof of the pudding will be in the eating." Corrective labour colonies are still there, but ordinary imprisonment is now regarded as the heavier penalty, whereas in the Code of 1926 it was the reverse. Correctional labour without deprivation of liberty has also been retained, but some of the details have been changed. An important innovation has been made regarding fines; they can no longer be commuted to imprisonment in case of non-payment (s. 27). V. Bemmelen regards this as an expression of the principle that a fine must never be imposed on an offender who is not in a position to pay it. Cases where the offender wilfully fails to pay apparently cannot happen in U.S.S.R.

The conditional sentence has been retained with the addition of the interesting provision that, where the sentence had been made conditional because of petitions received from public organisations or collectives of workers, employees or kolkhoz members at the place where the offender works, these organisations, etc., may be entrusted with the task of re-educating and reforming him (s. 38). This underlines the collective character of much of crime and punishment.

The provisions relating to aggravating and extenuating circumstances contain nothing original and could just as well be part of a non-Soviet Code, except for the reference to the court's "socialist sense of justice" (s. 32 *et seq.*). In the provisions relating to crimes against the state the concept of "counter-revolutionary acts" (art. 58 of the previous Code) has been dropped, probably to show that the Soviet state has become so strong that no such acts are any longer conceivable.

Professor v. Bemmelen's final conclusion is that "what has recently been enacted is a rather incomplete compilation of the criminal law of different Western European countries at the beginning of this century" (p. 25). Generally speaking this is true, but the presence of a few progressive provisions not throughout to be found in early twentieth-century Western Codes should not be overlooked, such as the one mentioned above for non-payment of fines and also the generous provision concerning the possibility of rehabilitation in section 47.

II. *Sammlung Ausserdeutscher Strafgesetzbücher in deutscher Übersetzung*.¹

- I. No. 73. *Das Bulgarische Strafgesetzbuch vom 2.2.1951*. Übersetzt von Thea Lyon. Berlin. 1957. VI and 63 pp. DM. 7.60.

¹ For previous volumes of this series see, e.g., *Brit.J.Delinq.*, Vol. IX, pp. 147-148.

2. No. 74. *Die Ungarische Strafprozessordnung, 1951 and 1954.* Übersetzt und mit einer Einleitung versehen von Dr. Erich Heller. Berlin. 1958. VIII and 80 pp. DM. 10.20.
3. No. 75. *Das Belgische Strafgesetzbuch.* Übersetzt von Dr. Heinrich Grützner. Einleitung von J. Marchal. Berlin. 1958. xii and 126 pp. DM. 16.

By far the best-known of the three Codes here translated is the Belgian Penal Code of 1867. It is, in the words of M. Marchal, a "classic" Penal Code which has, however, in later years so often been amended on more modern lines that in its present shape it hardly any longer conforms to the ideas of its creators. The well-known Act of 1888 introduced the conditional sentence and conditional discharge, the Act of 1896 a system of rehabilitation. An Act of 1919 expanded the scope of extenuating circumstances and thereby left even more room for judicial discretion, and in particular the Act of 1930, here reproduced in an Appendix, provided interesting new ways of dealing with abnormal and habitual offenders.

It would be interesting to make a detailed comparison between the Bulgarian Penal Code and its recent amendments, on the one hand, and the simultaneous changes in the Soviet penal legislation. For this we have no space, but in the light of what has been said above under I. it is not without significance that a provision dealing with analogy and also a provision allowing for prison sentences in case of non-payment of fines were both abolished in 1956 and that the minimum age of criminal responsibility was raised in the same year from thirteen to fourteen, whereas the criminal responsibility of minors between fourteen and eighteen depends on their ability to understand the meaning of their actions or to control their behaviour.

H. M.

ANOTHER NEW JOURNAL

The Prison Service Journal. Vol. I, No. 1. July 1960. Published by H.M. Prison Commissioners and printed at H.M.P. Leyhill, Falfield, Glos. Price 6d.

THIS is a most welcome addition to the still limited number of criminological and penological journals in this country. Its anonymous editorial board is housed at H.M. Prison Service Staff College in that most appropriately named little street "Love Lane" known to every visitor, voluntary or involuntary, to Wakefield Prison. There is, however, no prison smell about this first number. It has several excellent articles and opens, most fittingly, with a sober review of "The Prison Service since the War" by Sir Lionel Fox, followed by a constructive account of the work of the Prison Officers' Association by its General Secretary, Mr. Harley Cronin, and an equally useful discussion by Mr. Hugh J. Klare of the role of the Howard League as "H.M.

Opposition." John P. Conrad, whose penetrating article on "The Assistant Governor in the English Prison" in the April 1960 issue of *The British Journal of Delinquency* has not yet produced the stream of equally thoughtful comment which we had expected, meditates briefly and refreshingly on "what the doers think and what the thinkers do" in the field of penal reform. If only the thinkers would do and the doers think in future a little bit more as a team than they have been used to in the past!

Between Klare and Conrad there is a delightful cartoon from *Punch* which, however, pictures not, as we had surmised at first sight, a slightly recalcitrant "thinker" gently but firmly brought to his senses by the "doers" aided by Mr. Sewell Stokes (who dissects Mr. Klare's "Anatomy" with plenty of sympathy and understanding), but an escaped prisoner returned to Dartmoor.

Perhaps the most remarkable feature of this first number is its reviews, some of which are very detailed and of high standard. One of the books here reviewed, Howard Jones's *Crime and the Penal System*, was published as far back as 1956 and has already become a minor classic. One would be neither surprised nor dismayed, therefore, if the second number of the *Journal* should contain a "Critical Notice" of John Howard's *State of Prisons*. The reviewer of Lady Wootton's *Social Science and Social Pathology*, though by no means entirely uncritical, shows himself perhaps not fully aware of the many weaknesses of her book; moreover, he uses the opportunity to launch some lengthy and not altogether well informed criticisms of recent prediction studies. This is not the place to justify these studies, and nobody could be more fully aware of their limitations than the present writer, but to call their tables merely "elaborate tautologies" is perhaps going slightly too far. On the other hand, the reviewer has at least seen the fallacy of Lady Wootton's charge that our prediction studies "concentrate attention solely upon the future convicted person himself, as though no one else in the world existed."

Nobody could call this first number pompous or over-complacent. Complacency is of course one of the dangers against which any semi-official publication of this kind—the editors stress its non-official character—has to guard itself, but so far it has been duly kept in check by healthy self-criticism and a sense of humour.

H. M.

THE CASE OF GYPSY SMITH

L. J. BLOM-COOPER

JUDICIAL decisions in England on the substantive criminal law since the war have been less than helpful towards developing a modern system of criminal justice; the House of Lords decision in *Smith v. D. P. P.* represents the nadir of those decisions. Their Lordships, by rejecting the subjective test of what

constitutes an intent to commit a crime, have set the criminal law back many years at a time when most of the Anglo-Saxon Commonwealth countries have been abandoning the outmoded test of the reasonable man.

Smith was driving his car when he was asked to stop by a police officer. While a fellow officer who had spotted some stolen property in the back of the car directed Smith to pull over into the kerb, the car suddenly accelerated with the policeman hanging on. After a hundred yards, in which the car gathered speed and pursued a sinuous course, the officer was thrown off in the face of oncoming traffic, from which he received fatal injuries.

The trial judge, Mr. Justice Donovan, directed the jury that the test was: "What consequences would a reasonable man in the position of the accused have foreseen?" The jury brought in a verdict of capital murder; the Court of Criminal Appeal (Byrne, Sachs and Winn JJ.) reversed the decision and substituted a verdict of manslaughter with a sentence of ten years' imprisonment. The question which the jury must answer, the appeal court said, was "What consequences did the accused man foresee?" The House of Lords has restored the trial court's verdict, but the Home Secretary had already indicated that if the decision were reversed the accused would be reprieved, a practice which has a precedent in the case of *Beard v. D. P. P.* in 1920.

The House of Lords, which was unusually composed of the Lord Chancellor, Lords Goddard, Tucker, Denning and Parker, reaffirmed that spurious doctrine in the criminal law that where a specific intent must be found it is sufficient for the trial judge to direct the jury that a man is presumed to intend the natural and probable consequences of his acts. If the court had bothered to cast its eyes a little wider—it was prepared to, and did, cite approvingly an Australian decision on the definition of "grievous bodily harm"—it would have discerned a decision of the High Court of Australia, *Smyth v. The Queen* (1957) 98 C.L.R. 163, where that court stated that any such direction is apt to be misleading and no reference should be made to it.

The more interesting judgment is that of the Appellate Division of the South African Supreme Court of 1955 in *R. v. Nsele*, where the point is forcibly made that to employ the objective test to criminal intention is to blur the distinction between criminal responsibility and civil responsibility on the grounds of negligence. Is it now the law in England that a man who negligently kills another may in fact be committing murder? The House of Lords have almost taken the criminal law of intent to those lengths.

It is perfectly true that in the great bulk of cases there is little difference in the result whichever test is applied. If it is found that the accused "ought to have foreseen" the consequences of his action, then it could normally be shown that "he must have foreseen" and therefore by inference "did foresee." But the acceptance of the subjective test means that in those few cases where the Crown cannot establish that the accused did foresee the consequences of his action, whether his lack of foresight is due to stupidity,

ignorance or negligence, the accused will, and quite rightly should, escape the verdict of guilty of murder.

It is true that this differentiation in tests has greater meaning in a heterogeneous society like South Africa, where the average native African is largely ignorant by the standards of the white community. It would be absurd to take the white man on the Johannesburg bus as the standard for the criminal responsibility of all South Africans. But even in a homogeneous society such as our own, the objective test takes no account of the race or the idiosyncrasies or, indeed, the superstitions (Smith was himself a Gipsy) or the intelligence of the accused. The use of the objective test means that the ignorant and the unintelligent will fail more often than the intelligent person to measure up to the standards of the reasonable man. In an egalitarian age this cannot be justified on any grounds of public policy.

If the House of Lords has done a disservice to the criminal law, the damage can be repaired by the Criminal Law Revision Committee which at an early date should have the whole question of intent in the criminal law referred to it. The legislature might then be armed with ammunition to alter the law and at the same time consider other matters of the criminal law which require attention.

BOOKS AND PERIODICALS

CRITICAL NOTICE

LES DÉLINQUANTS ANORMAUX MENTAUX. Ouvrage publié sous la direction de Georges Levasseur. Introduction comparative de Marc Ancel. Publications du Centre d'Études de Defense Sociale de l'Institut de Droit Comparé de L'Université de Paris. [Paris, Éditions Cujas. 1959. xxix + 194 pp. No price.]

THIS symposium, written by eminent French lawyers, judges, psychiatrists and penal administrators, is one of the most important contributions to the subject published since the war. Although appearing under the auspices of the Institute of Comparative Law at the University of Paris, it is, in the words of M. Marc Ancel, not a comparative study but limited to French law and practice, with some references to Belgian law. Even so, the book is of the greatest interest to everyone concerned with the law and penal practice relating to mentally abnormal offenders. While coming out too late to be considered by those responsible for the framing of the Homicide Act, 1957, and the Mental Health Act, 1959, its bearing on these two statutes is only too obvious, and it has been published well in time to be useful to the proceedings of the Fourth Congress of the International Society of Criminology in September 1960 at The Hague. M. Ancel, in whose well-known series of monographs it has been included, contributes a brief but masterly comparative introduction highlighting the different ways in which the problem has been treated in different countries and expressing the view that, after long periods of futile controversies, better understanding and co-operation between lawyers, criminologists and medical experts seem at last in sight. He sketches the three main trends which, as he rightly observes, characterise modern legislations, *i.e.*, the tendency to replace the old dual-track system of punishment followed by measures of treatment and prevention by a single-track system; secondly, the tendency towards greater individualisation of treatment; and, lastly, the most controversial of all, the tendency to take coercive action against the dangerous pre-delinquent—all of them incidentally tendencies also present in the Mental Health Act, 1959.

The non-official "Avant-projet de Loi concernant les délinquants anormaux," which is verbally reproduced in an appendix and discussed from various angles in this symposium, provides an admirable illustration of such closer co-operation between all the disciplines concerned. Another important object of the book is to examine how the basic ideas of the post-war Social Defence Movement can be applied to the legal and penal treatment of mentally

abnormal offenders. The Avant-projet owes its origin mainly to three sources: the general dissatisfaction with the narrow and incomplete provisions of the Code Pénal, the interest aroused in France by the famous Belgian Act of Social Defence of 1930, and to the establishment at the University of Paris of a "Centre d'Études de Défense sociale" of the Institute of Comparative Law. It was drafted by a private Commission of experts formed in 1954, and its essential features may be summed up as follows: The Projet makes a clear distinction between the two categories of mentally abnormal offenders: (a) the *aliéné*, i.e., a person who, on account of a psycho-pathological condition due to mental illness or to incomplete mental development, is totally unable to appreciate the delinquent nature of his actions (le caractère délictueux de ses actes) or to conduct himself in accordance with such appreciation; and (b) the *anormal*, i.e., a person who, on account of psychological trouble or permanent mental deficiency affecting his superior controlling functions is not completely able to appreciate . . . (continued as under (a)). Persons falling under (a) are completely exempt from punishment, but if inclined to commit other anti-social acts subject to certain preventive measures. Those falling under (b) and regarded as ill-adapted to society (*inadapté à la vie en société*) and therefore exposed to the risk of recidivism are also exempt from punishment (single-track system for persons of diminished responsibility) and subject to preventive measures, but, as will be seen below, there are certain differences between the measures for persons under (a) and (b). For category (a) it is proposed in article 76 that article 64 of the present Code Pénal should be correspondingly amended with the addition of a clause providing exemption from punishment for cases of irresistible impulse. This addition and the formula reproduced above ("unable to conduct himself in accordance with such appreciation") show that, in contrast to the M'Naghten Rules but in harmony with most modern Continental Penal Codes, with the American Law Institute's Tentative Draft Code and also with the recommendations of the Royal Commission on Capital Punishment, considerable attention is paid in the Avant-projet to defects of will-power and to emotional factors. Moreover, the inclusion of mental defectives, too, is on the right lines. Only the formal recognition of the defence of irresistible impulse is not entirely in accord with the views of the Royal Commission. On the whole, however, it is clear that the proposals of the Avant-projet are considerably superior to the present French law, which contains no definitions and pays no attention to conditions of diminished responsibility apart from the senseless and antiquated "dosage system of mitigating circumstances" condemned by M. Ancel and M. Pinatel ("solution bâtarde") and now to be replaced by effective preventive measures. These measures can be very drastic, but, as indicated above, they rightly distinguish between those applicable to the two categories: the "*aliénés*," naturally, are subject to "internment de défense sociale," a curative measure consisting of placement in a psychiatric hospital (art. 38 *et seq.*), and when

their condition improves they can be treated at large until the likelihood of further anti-social acts becomes remote and they can be altogether released. All this is in line with the system in this country. The "anormaux" are subject to "détention de défense sociale" which is described as a measure of "médico-répressif" treatment aiming at the improvement of their mental condition, their moral re-education and social readaptation (art. 29). Its maximum duration is fixed in article 30 at ten years, but in article 66 we find it provided that this can by stages be indefinitely prolonged. This, too, is similar to the corresponding provisions of the Mental Health Act, 1959, with one important difference, however, to be mentioned below. It is also proposed in suitable cases right from the beginning to admit the use of non-institutional methods, *i.e.*, probation, instead of "détention" for "anormaux" guilty of a "délit" (art. 32), thus excluding those guilty of more serious crimes. One might possibly argue that this exclusion is slightly illogical. If the "détention de défense sociale" is not a penalty but a preventive measure its nature should not depend on the legal qualification of the act committed. However, it has to be admitted that this is a field where we cannot afford to be entirely logical as public opinion is always a factor to be reckoned with. Nevertheless, it has to be remembered that recent English legislation has made no such distinction. Another difficult point is the meaning of the term "médico-répressif" in article 29. Professor Levasseur (p. 24 *et seq.*), who is slightly less in favour of the single-track system for "anormaux" than are other contributors, notably M. Germain, Avocat Général à la Cour de Cassation and Former Director General of Prisons (p. 114 *et seq.*), considers the mixture of medical and penal elements apparently envisaged in article 29 as the necessary antidote to the single-track system, but although he defends the Avant-projet against the possible charge of applying a "mathématique déplorable" (p. 26, n. 61) he has to admit that these two elements will often not mix together too well. There are important observations on this question in M. Germain's chapter, and in particular in that written by two leading French psychiatrists, Drs. Robert Vullien and Jean Dublineau, culminating in the formula that, while it has to be taken for granted that the medical element should not place itself at the disposal of a repressive régime, it nevertheless has at least temporarily to efface itself in certain cases: "les établissements de Défense sociale seront donc des établissements hybrides" (p. 66 *et seq.*). In the face of this, how true seems their conclusion that the therapeutic problem in a penal institution is "far from simple." These sections of the book should be of considerable interest to all those in future responsible for the administration of the new Grendon Underwood Prison.

The point where the Avant-projet differs most sharply from the corresponding provisions of the Mental Health Act, 1959, and also from those of the Belgian Act of 1930 is the role allotted to the judiciary. Whereas in the former Act the controlling functions of the magistrates have been replaced by those

of administrative tribunals it is one of the cardinal features of the Avant-projet to maintain the principle of "légalité" in the sense of full judicial control over all important decisions and to keep the "technicians" in their places, although the judges can take no decisions without first hearing the views of the experts (see Levasseur, p. 18 *et seq.*). The judicial functions are to be exercised in part by a full "tribunal correctionnel" and in part by a special judge, the "juge de l'exécution." Under articles 59 and 68 even the choice of the institution to which the "aliénés" and "anormaux" are to be sent is left to the judges. All this of course presupposes, although the point is not made in the book, that these judges are suitably trained for their complicated duties.

Particular attention has been paid in the Avant-projet to the need for full preliminary examinations. For the first time in France medical observation of adults charged with offences but not yet convicted will become legal (see M. Bonassies on p. 103 of his important chapter, "Du dépistage, de l'expertise mentale et de l'observation"). These very elaborate and occasionally perhaps slightly too complicated provisions, too, would well repay some detailed study.

It will be interesting to see in what shape this important draft will eventually emerge from the French Parliament.

H. M.

REVIEWS

LAW AND OPINION IN ENGLAND IN THE TWENTIETH CENTURY. Editor, MORRIS GINSBERG. [London: Stevens & Sons, Ltd. 1959. viii and 407 pp. £2 2s. net.]

IN 1905 A. V. Dicey published his *Lectures on the Relation between Law and Public Opinion in England during the Nineteenth Century*. Like most of his work, it has remained a classic. The word "relation" in the title is the keynote to the work. He was anxious to show what public opinion created legislation, and how, and whether legislation created public opinion. He traced three periods in the legal history of the century—the first, the period of Old Toryism or Legislative Quiescence (1800–1830); the second, the period of Benthamism, or individualism (1825–1870)—the era of utilitarian reform; and the third, the period of collectivism (1865–1900)—"often termed socialism, which favours the intervention of the state, even at some sacrifice of individual freedom, for the purpose of conferring benefit upon the mass of the people." His story is indeed the story of these three contrasted periods, but it may be said that the chief value and attraction of the work, in each period, lies in the lucidity of the style, the harmony of the thesis, the originality, the eloquence, the profundity, the learning and the wisdom.

In 1914 he produced a second edition, with an introduction resuming

the legislation since 1905. The charm still lingers, but the clear-flowing stream is entering the shallows. The collectivism or socialism of the third period is said to be showing rapid growth, and his conclusions become a warning of dangers ahead. It is not surprising that the theme is losing some of its clarity, for an age that "favours the intervention of the state, even at some sacrifice of personal freedom, for the purpose of conferring benefit upon the mass of the people" does not of itself betoken socialism or collectivism, but merely a general belief that it is the function of the legislature to be increasingly active, and active in protecting and advancing the interests of the bulk of the people—or (which is truer of our age) of those who most need its help, the underdogs.

It was an attractive idea to pursue the same investigation into law and opinion in England in the twentieth century (so far as this century has proceeded), and here is a collection of seventeen chapters, each a public lecture that was delivered at the London School of Economics, in 1957–58, by a distinguished expert in his own field, and each concerned either with an aspect of the trends of thought in the period or trends in social policy or a branch of the law. The volume of legislation has continued to increase, and no man can be an expert over the whole field—at least, no man who is not a Dicey. And we cannot all be Diceys—perhaps none of us can.

So, the book is a very different book, not only in this respect but also in the others. It has not his charm or lucidity: indeed in some of its chapters it is even difficult to read. It has no harmony of thesis: indeed many of the writers, making a gallant attempt, are unable to find a thesis for the whole. The originality has gone, for that was Dicey's. The profundity is missing from some, and the eloquence from most of the chapters. The learning is there, of course, and wisdom to that extent. The book sets itself a lofty standard in undertaking the role of a sequel to Dicey's story, and must expect to be judged by such a standard.

Here, then, in the body of the work, is a series of very able résumés of the changes in the law in each of the departments treated of—sometimes, as might be expected, showing no relationship with the theme of "the legislation of the collectivist age" (if that is the theme). For example, Sir Seymour Karminski contributes a plain and downright summary of the changes in family law, which, if they show anything, show a continued change in the direction of individual freedom in the termination of the marriage contract and the grant to the wife of a completely independent proprietary capacity, though at the same time an increasingly active interest of the legislature in the underdog—that is to say, in the care of the child, the maintenance of the wife and (it may be added) the protection of her property rights in the assets of the household (s. 17 of the Married Women's Property Act, 1882, as recently interpreted). Sir David Cairns' chapter on "Monopolies and Restrictive Practices" is the story of the beginnings of a movement for the protection of the individual against the combinations of large-scale industry. Professor

Kahn-Freund begins his lucid chapter on "Labour Law" with the statement that "few branches of the law have been less changed in their fundamentals since Dicey's day"; and he points out later that the attitude of the legislature towards the trade unions partakes neither of socialism nor collectivism and is the reverse of state interference (p. 224), and that Dicey's analysis "as a prognosis of twentieth-century developments" was wrong (p. 221). Dr. Hermann Mannheim, in his learned chapter on "Criminal Law and Penology," points to the vague and contradictory use by Dicey of the term "public opinion" and his neglect of the criminal law, especially of the whole subject of homosexuality and sexual offences. He considers at some length whether there have been changes in public opinion in this field (as there have been in the sentences imposed by the courts). He points out that the Report of the Royal Commission on Capital Punishment, the Wolfenden Report, and the Government's refusal to carry out the main recommendation of the latter, all show the prevailing tendency to take refuge behind what they proclaim to be public opinion, without any real attempt to find out what the state of opinion is, and what it wants, or whether it wants anything at all. "Public opinion has become much more open-minded and flexible and willing to consider new ideas." Professor Robson, the author of the chapter on "Administrative Law," powerfully takes Dicey to task for his monumental misunderstanding of "*droit administratif*." Professor Gower is lucid and convincing on the vast changes in commerce since 1900, and the changing attitude of the business man towards the law, though many will not sympathise with him in casting so much of the blame upon the lawyer. There is no room to mention all the contributors, but Professor Ginsberg's initial lecture, analysing the movements of thought in the period under review, and in particular the relations between political individualism, utilitarianism and liberal-socialism is perhaps the best in the book.

This is, therefore, a highly informative series of lectures, and valuable as such. It does show that in some matters Dicey was vague and in some others wrong. Its title is perhaps at fault as being too close to that of Dicey's to suit the contents. Such a title should perhaps be borne, and may still be borne, by a book written by one man at the end of the present century, if, as we may suppose, "law" and "opinion" and "England" still bear the same or similar meanings. The present reviewer will not be here to read it, and is grateful for this forerunner.

A. S. Diamond

STUDY ON TRAFFIC IN PERSONS AND PROSTITUTION. [United Nations Publication. 1959. 57 pp. 3s. 6d.]

THIS official international document is based on already published material and *ad hoc* inquiries throughout the world; it is an aggregate rather than a symposium. A summary will, I think, make its own comment.

The Study develops the programme of action embodied in the 1949 International Convention for the Suppression of Traffic in Persons and the Exploitation of Others when, for the first time, regulated prostitution was treated as coming within the scope of international action. The Convention follows the findings of the League of Nations inquiries of 1929 and 1932 into the traffic in women and children, both of which reported that the licensed house was the main influence on this traffic. Parties to the Convention would make all forms of brothel-keeping illegal and repeal any existing measures involving the registration or regulation of prostitutes; it should be an offence to procure, or to exploit, a prostitute no matter whether there is consent or whether no gain is involved. This would apply to national as well as international activity. In addition the Convention requires the extradition of offenders and makes recommendations for the protection of women (*e.g.*, as immigrants and as applicants for employment), for the repatriation of victims of traffic and for improved general social and moral hygiene for the prevention of prostitution and rehabilitation of prostitutes.

The Study illustrates that changes in the situation itself and in official attitudes, which have been observed in this country, are fairly general. No cases of international traffic have been discovered, whereas once in some countries 70 per cent. registered prostitutes were foreign. Nonetheless some trafficking is believed to be going on but in a nominally legal form. (Is there a note of wistfulness here?) Similarly, in spite of conditions differing from country to country, exploitation appears to have decreased: "The prostitute is a freer person, less regimented and in general less subject to coercion." Further, the prostitute is not regarded any more as a major source of V.D.; nowhere has regulation or compulsory treatment of prostitutes limited these diseases. This and the association of brothels with international traffic are the main arguments in favour of the abolitionist policy; this policy aims to abolish regulated prostitution but not to prohibit other forms of it. The report examines the claims of the two approaches, abolitionist and prohibitionist, and strongly supports the abolitionist in spite of the corollary of clandestine prostitution.

In its recommendations for dealing with clandestine prostitution the report consistently takes the line that prostitutes should not be treated as a unique group: while soliciting should be regarded as a self-evident public nuisance it should come under general provisions relating to public order; special police should not be used against prostitutes; the prostitute should not be singled out for treatment in any campaign against venereal diseases; rehabilitative action should be taken within the framework of policy and provisions for the general population (the prohibitionist practice of confining prostitutes within special institutions is not satisfactory).

In considering how to reduce the supply of prostitutes the report is concerned more with social than with personal factors; however, it says that

few prostitutes are mentally, psychologically and emotionally normal (the Gluecks put the figure as low as 6.6 per cent.); many are psycho-sexually immature but few are feeble-minded. Taking the view that "promiscuity often leads to prostitution" it would like to see facilities for the psychiatric examination of all promiscuous people and advocates the employment of psychiatric case-workers at V.D. clinics and juvenile courts; it especially praises the clinics of the New York Term Court for prostitutes and wayward girls.

Economic hardship, unemployment and the social status of women are regarded as the most important widespread social factors, particularly in Asia and the Far East. U.S.S.R. is quoted as having reduced prostitution by eliminating "material insecurity and lack of legal safeguards for women." In contrast the Wolfenden Committee asserts that economic factors do not account to any decisive extent for prostitution in this country. Conditions conducive to prostitution vary locally: immigration in Israel; religious practices in certain parts of India; rapid economic development and migration to cities aggravates the situation; an increase in alcoholism in Poland and drug addiction in Scandinavia and U.S.A. has been accompanied by an apparent increase in prostitution.

A League of Nations report of 1943 is quoted as saying that the greatest hope of permanent reduction in prostitution lies in reducing the demand. However, "the prostitute's customers are, by the nature of things, unknown" and Kinsey is the Study's main source of information about them. Like prostitutes, clients are said to show "deficient integration in the structure of their personality and sexual behaviour"; suggested ways of dealing with them include sex education, removal of indirect social stimuli to prostitution, a policy encouraging marriage, increased opportunities for leisure and sports. As provisions against exploiters of prostitution have universally yielded such poor results it is suggested that the reason for this be investigated.

"Re-education" has tended to replace the old term "rehabilitation" and this represents a change in administrative attitude towards those engaged in prostitution. It is recognised that limitations of personality might make readaptation difficult, even if the person concerned were willing to co-operate, and psychotherapy would often be required. Victims of the new legislation should be removed from their environment, but assistance should be given against a setting of freedom and, where institutional treatment might be necessary, in a non-penal institution. Constructive measures such as suspension of punishment and conditional freedom should be used instead of fines and imprisonment in cases of soliciting; probation should be conditional upon its acceptance by the prostitute.

A report of this order is inevitably limited by the different levels of socio-economic development, the cultural patterns of the countries concerned and the sophistication of its informants. The Study alternates between concepts current in social psychiatry and a somewhat naïve approach reflected in

old-fashioned phraseology. It is tempting to ascribe prostitution to poverty and status of women in undeveloped countries or those where there is an unequal distribution of money, but this may be merely an early stage in considering the causes of prostitution. We used to look at them in that way in this country. Prostitution resembles other social phenomena which carry our projections; when we have dealt with what appears to be the source of our difficulty the problem is often found to be still present. In spite of its wide embrace the report omits to suggest that there may be a common factor lying behind our concern at all levels of civilisation with the ritual of prostitution.

The subject of the Study makes it more relevant to regulationist countries than to others and so far as this country is concerned it adds nothing to the main body of the Wolfenden Report. Not all the proposals are being followed here; Great Britain and many major Western Powers have not signed or acceded to the Convention. Nor are all former regulationist states adopting the abolitionist standpoint when they close their brothels; to the Japanese the logical sequence was prohibition; the toleration of clandestine prostitution seemed a peculiarly Western form of unreason.

Rosalind Wilkinson

DELINQUENCY AND PARENTAL PATHOLOGY: A study in forensic and clinical psychology. By ROBERT G. ANDRY. Foreword by Hermann Mannheim. [London: Methuen. 1960. 173 pp. 21s.]

THE work of Spitz, Goldfarb and Bowlby in America has for some years stressed the paramount importance of the child-mother relation for mental health. Dr. John Bowlby has in particular laid the emphasis on delinquency as the most serious consequence of disturbed relationship. Bowlby's boy thieves study defined a loveless type of character arising from deprivation which became the cornerstone of the disposition to delinquent conduct. The father seemed to be largely left out of account because of this focus on the mother role in personality development. Many clinicians, while fully aware of the primacy of mother-child relationship, were conscious of the omission of the father from the study of delinquent character and conduct, and it is to Dr. Andry's credit that the whole matter has been re-examined in order to assess the paternal role in the triangle of the family. Whatever be the claims of psycho-analysis in disclosing the dynamics of child development, scientific objectivity demands a statistical instrument to point the direction in which numbers of persons tend to move in consequence of the interpersonal forces which play upon them. Constitution has been evoked as causal, as too have social forces. Now interpersonal relations, particularly those laid bare in the course of analysis, hold a foremost place in determining the design of a research. Dr. Andry starts out with an *interview questionnaire* designed to focus on the problem of deprivation, fully conscious of the subtleties of the

relations of an emotional kind governing conduct. First, what is the role of both parents in a delinquent and a non-delinquent group; how adequately do they assert their roles; what disturbances of conduct occur where inadequacies are clearly observed? The inquiry was confined to boys, partly because delinquent girls were comparatively rare, and partly on Freudian principle, because the father-son relation has a particular significance for character and conduct. The gross broken-home cases were excluded, in order to consider a more or less intact family structure. Further, a series of hypotheses were defined for empirical testing. Lastly, it was decided that the inquiry should be objective, quantitative and repeatable. The longitudinal follow-up method suggested by Bowlby from babyhood onwards to the time of social reaction (with or without delinquency) is difficult to handle without long-term material. Andry's material is retrospective data on eighty delinquent and eighty non-delinquent boys. These were interviewed on standard questions, as were the parents. Matching of the two groups was carefully considered in terms of I.Q., age and social class.

The method of statistical analysis was based on the χ^2 measure of significance. Of the hypotheses presented for proof or disproof, only a sample need be given: viz. (1) that delinquents tend to feel loved more by their mothers than by their fathers, whereas non-delinquents feel loved by both, this being statistically significant and supported by a summary of a code of affection; and (2) that parents of delinquents show different degrees of affection from those of non-delinquents.

The communication between parents and children was also investigated, and showed lack of paternal co-operation. Also, the authority of the father was much less manifest in the delinquent group. The issue of physical separation was prominent in the study of the effects of maternal deprivation. Here the need for a close scrutiny of separations from each and/or both parents becomes important, and at what age and with what frequency. The pre-separation quality of parents and children has been an all too neglected theme in researches. So many separations do occur in modern western life that the stability of the family is found to compensate for the shock of separations. In Andry's cases, dual separation was not significant in affecting delinquent conduct. Dr. Andry sums up his findings under the headings of parental affection, communication, home climate, training and separation, and in each focus of scrutiny the role of the father appears to be definitely significant in the provocation of delinquent conduct.

Dr. Andry appears, on the statistical technique, to prove his case. It might be suggested that the relation of this inquiry to neurotic character traits would not only prove of special value but would also throw impartial light on the degree of stability of the delinquent subject. How does the paternal role influence this aspect of behaviour—an aspect which, in later life, has increasing importance for forensic attitudes to responsibility?

E. M.

DEUTSCHE STRAFRECHTSREFORM IN ENGLISCHER SICHT. By HERMANN MANNHEIM. [Munich and Berlin: Beck'sche Verlagsbuchhandlung. 1960. 140 pp. DM. 16.]

THIS is a collection of lectures and of an article, grouped together in a small but important book. The first chapter is, for the English reader, perhaps the most illuminating. In it a number of fundamental points contained in the general part of the New German Draft Criminal Code and their effect on the administration of justice are examined and compared with the administration of justice in this country. Whatever the advantages of not having a Code, there is no doubt that there are also considerable disadvantages, and these are brought out in a magisterial manner.

The other chapters deal with the treatment provisions for young adult offenders and the way they are being applied; and with the English probation system. These analyse not only the treatment problems themselves but relate them constantly to the legislative decisions and their judicial interpretations on which treatment is based. Throughout, the reader is aware of the author's capacity to see practical problems within their philosophical context. Finally, there is a chapter on recent developments in criminological research which brilliantly traces the evolution of modern methodology to which the author himself has contributed so much.

This slender book is, in fact, a major contribution to criminology and it appears most opportunely at a time when a synthesis must be found in Europe between different concepts of criminology which would permit a more fruitful scientific co-operation than has hitherto been possible.

Hugh J. Klare

THE PRISONER'S FAMILY. By NORMAN FENTON. [Pacific Books, Palo Alto, California. 1959. 137 pp. \$3.50.]

AT a time when the British prison system is developing its own brand of group counselling the arrival of a book written by Dr. Norman Fenton, who was so much concerned with the introduction of counselling in California, is a matter of considerable interest—especially when it is noted that the subject is family counselling. It is becoming clear that however valuable group situations may be in the treatment of offenders, they in no way lessen the need to bring the prisoner's family into the picture. Indeed the opposite seems to be true.

The project described in the book was financed by the Rosenberg Foundation of San Francisco and is explained in the opening chapters. A concise description of the main aim is "an endeavour to bring guidance and counselling techniques into play between prisoners and their families." Four main lines of approach were used, as follows:

- (1) Information about prison life to the families. It was considered wise to make an attempt to "integrate" the families by means of brochures and booklets, so that the parents or marital partner of a prisoner should have a clear idea of the life led in the prison.
- (2) Superficial counselling about leisure activities, the parole system, training facilities, etc.
- (3) Group counselling sessions between groups of prisoners and their relatives.
- (4) Individual counselling sessions with the prisoner and his immediate relatives.

Chapter 7 describes in some detail the actual trials of these proceedings, and page 59 contains a very interesting factual account of mixed sessions at Folsom State Prison, during which the testing-out phase, which is so much a feature of group counselling, is clearly illustrated. A section starting on page 61 similarly gives an account of sessions held prior to release with a parole agent present, in which it was felt considerable resistance to parole was dissipated.

Inevitably problems were encountered, and in particular the groups containing at first only young couples tended to languish. This may well be a problem of immaturity, akin to that met with in other group activities. It was also found necessary, sometimes surprisingly early, to use enrichment techniques in the groups—and films were the chosen method. Problems appeared in groups containing both parents and marital partners, and it would seem that the mother-in-law situation is not excluded from a group! These groups functioned more efficiently when separated, *i.e.*, prisoner and parents or prisoner and marriage partner.

Most of the aims of the project seem to the writer to be thoroughly acceptable and international but some of the presentations would not perhaps be equally successful on this side of the Atlantic. In the same way that the introduction of group counselling to the prisoners in California appeared here to be accompanied by overmuch beating of the drum, so there seem to be signs of over-emphasis in the introduction of family counselling—which appears almost to raise visits to the Graduation Day level and to invest imprisonment itself with a sort of dignity.

The geographical problems arising out of family work are very serious. In the project described in this book, travelling expenses were met by the funds of the Rosenberg Foundation, and it can be imagined what the expenses involved would reach if large-scale attendance of the prisoners' families for group meetings had to be organised on a national scale in this country.

The call for regionalisation of prisons seems to be supported as a secondary result of the work recorded in this book. Another secondary result which emerges is the effect produced in welding the staff members of a prison into

a multi-disciplinary team—a wholly sensible result whatever the method of achievement.

Whether or not family counselling is the ideal method to bring the prisoner's family into closer touch with the social problem is an arguable point—but Dr. Fenton has done a service in recording the results of the project and all concerned are to be congratulated on attempting progress in this essential sphere. Although the book is not always easily readable, and some switching about from chapter to chapter becomes necessary, there are useful summaries at the end of each chapter and it should prove stimulating to anyone interested in this area where criminology and sociology meet.

D. A. Ogden

BROTHERHOOD OF EVIL: THE MAFIA. By FREDERICK SONDERN. [London: Gollancz. 1959. 243 pp. 21s.]

MR. HARRY J. ANSLINGER, Chief of the Federal Bureau of Narcotics, describes this book in a foreword as "... a searching, exciting and accurate book. It tells a story that every American should know." It is concerned, as the title suggests, with the Mafia and its role in controlling large-scale, organised crime in the United States and in particular the traffic in narcotics.

The Mafia is sometimes described as a secret society, and in its racketeering operations it has some affinity of type with the Chinese tongs in Singapore and other commercial centres of the Orient. It is, however, more diffuse in its social organisation and more geographically widespread, held together with ties of blood kinship and affinity as well as the economic relations of organised crime. In addition to discipline, the Mafia has a philosophy which is largely anarchist in relation to the socially accepted system of law and order. Furthermore, Sicilian origin, in addition to achievement, is an essential prerequisite to promotion to the esteemed rank of *capo mafioso*. Although internecine feud, ending in stylised underworld "executions," is not uncommon when conflict arises over the control of territory or the exploitation of a particular racket, the Mafia also have their nation-wide conventions at which questions concerning the all-important importation and distribution of heroin are discussed. The most recent of these, at Appalachin in Upstate New York, in 1957, was interrupted owing to the initiative of a particularly able police sergeant, and a large number of arrests were made. Although pressure of a political nature was brought to bear, it was without success, and the disaster at Appalachin has proved to be a major setback to the organisation of the Mafia, inquiries still taking place as late as the autumn of 1959.

The task that Mr. Sondern has undertaken is to expose to the American public the hydra-headed Mafia in all its evil activities, not least those concerned with the ruthless exploitation of the victims of narcotic addiction.

If his account of the activities of under-cover Federal agents in the cosmopolitan ports of the Mediterranean seem to belong to the realm of celluloid, it is because the international traffic in drugs has precisely this character. What is clear is that the problem of law enforcement is frequently extraterritorial because the kinship system of the Mafia maintains links between the United States and deported *mafiosi* in Italy and Sicily whom, it would seem, the Italian police authorities do not take as seriously as their transatlantic colleagues.

The belief that organised crime and gangsterism passed with the repeal of Prohibition has never been accepted in informed American circles, and even a complacent public was rudely awakened by the revelations of Senator Kefauver and his colleagues when they began to dredge the unsavoury mire of underworld rackets and politics in the early 1950s. If Mr. Sondern is somewhat repetitive, and given to a journalistic style, it must be justified in terms of his aim of informing the lay public. The Bureau of Narcotics and Mr. Anslinger, however, are presented rather in the manner of "goodies" as opposed to the "baddies" in *Dragnet* or the adventures of Boston Blackie. The enforcement of the law relating to narcotics is more serious an object for consideration than the issues which divide hunter and hunted in crime fiction. Nowhere in this book is there even a hint that the rationale of current methods of controlling addiction in the United States might be questioned. It is assumed that rigid enforcement of the law is the only course but, as Professor Lindesmith has pointed out, the British method is astonishingly successful. Where a Health Service can treat, and for therapeutic purposes supply, addicts at below market price, there can be no profit in a racket.

Terence Morris

ADOPTION. By MARGARET KORNITZER. [London: Putnam & Co., Ltd. 1959. 176 pp. 10s. 6d.]

MARGARET KORNITZER has achieved for herself a special place as a writer on adoption subjects, and here she presents a book which gives a clear account of adoption legislation and practice. It is addressed to would-be adopters and so speaks in personal terms, giving advice and drawing on case illustrations.

New legislation which came into effect in 1959 and the extension of powers for local authorities to arrange adoptions have stimulated the current interest in adoption. Workers who undertake the responsibilities of adoption arrangements are anxious for more guidance and in conferences, articles and studies, seek to clear their concepts.

There is no question but that adoption is an immensely significant event in a child's life and it touches on all we have learnt of the importance of continuing affection and security for the infant, dangers of separation from the mother and a host of unsolved problems about which we feel much and

know little. What happens later to the natural mother of the child, how does that shadowy figure the father feel about it? Even where the focus remains on the adopted child, we can only guess at his phantasies about the parents to whom he was born, however happy his position in the adoptive family.

In studying the maladjusted or delinquent child we may well ask the significance of the fact if the child is adopted. Here is a situation where things have gone wrong and adoption, like other factors must be studied. There is no evidence that in disturbed children adoption can be stated to be a frequent cause but where it exists in the case of a delinquent child, it requires to be studied with all its implications.

Miss Kornitzer throws light on some of these implications by the safeguards she suggests and the questions she asks of the would-be adopters. Her picture is of adoption as a whole providing a happy family life for the deprived child, greatly to the satisfaction of adoptive parents and their relations. Where this is so, it may well serve to prevent delinquency.

R. S. Addis

PSYCHIATRY IN THE BRITISH ARMY IN THE SECOND WORLD WAR. By ROBERT H. AHRENFELDT. [London: Routledge & Kegan Paul. 1958. 311 pp. 35s.]

DR. AHRENFELDT's carefully documented account of British Army psychiatry in the Second World War is a useful addition to the fairly extensive literature on this subject already available. As the comprehensive bibliography shows, the wartime and early post-war publications in this field have been surveyed. But, besides this, the development of War Office policy in dealing with psychiatric problems is traced through the policy letters, instructions and orders issued by the administration to guide those engaged in dealing with them in the field. The author has also been able to follow the arguments which led to the fashioning of these instructions of policy by his acquaintance with the War Office files in which the policy was worked out.

The Second World War came at a crucial moment in the development of the psychiatric approach to human problems. The previous order of law and religion, virtue and sin, right and wrong, which had served the nineteenth century had been severely shaken by the development of modern psychology. Neurotic illness, criminal responsibility, mental ability, could no longer be dealt with to the satisfaction of professional conscience in the terms accepted by an earlier social order, but no new generally acceptable set of terms had, or indeed has yet, been worked out. Already in the war of 1914-18 concepts such as shell-shock had raised moral as well as clinical problems and the justice of the ancient penalty of death for desertion had been questioned. Wars make these problems more urgent, and many which do not arise in civil life such as crimes against a military code, *e.g.*, absence without leave,

which are not crimes against a civil code, force social issues to the attention of administrators. Throughout the development of British Army psychiatry in the Second World War one is made acutely aware of the struggle between the old order of thought and the new. Often the welfare of the individual seems to be submerged in the battles between old-established principles and new approaches to human problems. But slowly there emerges a new pattern of attitudes towards the dullard, the neurotic and the delinquent, and by the end of the war an administrative plan had emerged from which civilian practice could learn much. Perhaps the most interesting development was that by which psychiatric reports were treated as expert documents rendered to the president of the court, not as evidence for or against the accused. This avoided the great waste of time involved in calling psychiatrists as witnesses for or against and unseemly wrangles in cross-examination which so often bring proceedings in civil courts to disrepute.

The chapter on disciplinary problems will be of special interest to those concerned with criminology and the treatment of delinquency. The enlightened schemes worked out by the military organisation in this field are described, as well as the way in which the policy was fashioned and the mistakes made before the results were achieved. Those of the old school reading this book may well complain that so much ground was gained, while those of the new may feel that the reactionary forces were able to impede progress for too long. The verdict of history is likely to be that a surprising amount was achieved in a comparatively short period. Dr. Ahrenfeldt's account is a useful handbook for those who are still concerned with the establishment in practice of modern attitudes towards psychiatric problems or who may again be so in some future conflict.

It is a pity that the full text of the original work, or perhaps an abridgement that sacrificed less documentary material from Government files, cannot be made available to professional readers outside Government circles. Those who were concerned remember it all as an interesting experience and may often wish to refresh their memories of the way in which the framework of their practice was fashioned. Those who did not take part could find much in a detailed and authoritative account of how it happened to help them in similar administrative problems in civil practice. The official history of the war, as Dr. Ahrenfeldt points out in his preface, can by its nature and scope not supply this need.

J. C. Penton

HOSPITAL TREATMENT OF ALCOHOLISM. By ROBERT S. WALLERSTEIN, M.D., and Associates. [London: Imago Publishing Co., Ltd. 1957. x + 212 pp. 42s.]

THIS book presents the results of a systematic study carried out at the Winter Veterans Administration Hospital, Topeka, by a team of psychiatrists and

clinical psychologists headed by Dr. R. S. Wallerstein. In a specially designated closed ward, holding at any one time twenty-five patients, a total of 178 male alcoholics—all voluntary patients, expressing a desire to be helped—among them psychopaths, neurotics and psychotics—received one of four selected methods of treatment for alcoholism. One group, originally set up as a “control” group, received only the routine “milieu” therapy (without any additional special therapy)—*i.e.*, a “dynamically oriented milieu program,” occupational and recreational activities, a weekly group psychotherapy session and some individual psychotherapy. The members of the three other groups received in addition to this “milieu-therapy” also one of three special forms of therapy—*i.e.*, Disulfiram, conditioned reflex therapy (Emetine) or group hypnotherapy. In practice, the “milieu-group” soon proved to be more than a mere control-group, developing as its special characteristic an “acceptance of psychotherapy”—*e.g.*, requesting group psychotherapy twice weekly. Patients were assigned to their particular group by randomisation. Clinical and psychological studies covered not only the hospital stay (from two to three months) but also the subsequent two-year period of regular follow-up visits. In the assessment of improvement, consideration was given apart from the “degree of abstinence” also to the factors of social adjustment, “subjective feelings of difference” and “structural changes in personality configuration.”

Each method had its successes and failures to such an extent as to “preclude the blanket description” even of the relatively most successful treatment method, *i.e.*, Disulfiram, “as the optimal mental hospital treatment method of the chronic alcoholic patient.” Apart from the comparison of treatment results, the authors also attempted to correlate the personality structure of the individual patient to the results of the particular treatment and to find out whether and why a particular method was most successful for certain personality types. With any form of therapy, prognosis was found least favourable for “strongly aggressive” characters.

The authors consider the personality dimensions assessed by them in each patient to be “the first step in the planning of individualised hospital programs for alcoholics,” and they suggest a successor-project (making use of their findings) and a long-range follow-up.

The field of alcoholism is beset by confusing and contradictory claims and hypotheses. Little attempt seems so far to have been made to compare objectively the results of different treatment methods. All the more praiseworthy are, therefore, the authors’ well-planned and carried through efforts to present such an objective comparison, independent from the therapist’s own bias and “faith” in his method, and to correlate selection of special therapeutic methods with the individual personalities of the patients.

M. M. Glatt

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CORRESPONDENCE

THE EDITORS,

THE BRITISH JOURNAL OF CRIMINOLOGY

Sirs,

Mr. H. Davies Jones, in his excellent comment on the Carlton School disturbances report, endeavours to put "Carlton in Perspective" by going back to the Reynolds report of 1946. I would like to extend this, by going back a further 100 years to 1847. Mr. H. Davies Jones stresses particularly Mr. Durand's recommendations regarding:

- (a) improvement in staffing;
- (b) closed blocks for persistent absconders;
- (c) change of nomenclature;
- (d) transfers of "hard core cases."

None of these points are without precedent in the history of approved schools; some of them, in fact, have been hardy perennials ever since institutions for juvenile delinquents have been established. Thus Captain O'Brien (a Commissioner of Prisons) told a House of Lords Select Committee on Juvenile Offenders in 1847 that the problem of staffing would be the main stumbling-block of the (then) proposed reformatories. A similar point was made by Sir Joshua Jebb (Fifth Report of the Surveyor General of Prisons) in 1852 and the subject has been raised *ad nauseam* ever since. Why should we now assume that an increase in material advantage would bring forth a new crop of *suitable* candidates as housemasters? There has been a continuous improvement in conditions of service in this work, but the real staffing problem has never been seriously altered, because the strenuous, exacting and exhausting nature of residential work can only be adequately rewarded by a sense of achievement and success. This is not to say that good salaries are not important—they are; but no matter how large the salary, the right candidate (and there are many *potentially* right candidates who give up) is attracted and held by the kind of training which will give him a sense of security which eliminates the threat of riots and their attendant consequences, and a sense of satisfaction which compensates for the obvious disadvantages of residential work. How this training is to be achieved, I would like to consider under the heading of personal relationships.

Closed blocks or maximum security conditions have also been tried, but have not solved the problem of the persistent absconder, even when absconding was countered by the most brutal punishments. Only long-term

research, unhampered by public pressure or a personal stake in preventing it, will provide an answer.

Mr. H. Davies Jones' comment on nomenclature is very much to the point. "Approved School" is little more than a description; there is no reason why every school should not have its own name. (Carlton started as the Bedford Reformatory for Boys. Why not just Carlton School?)

A system of returning hard core cases (incorrigibles) to juvenile or general prisons was practised extensively throughout the nineteenth century. The power of the reformatory authorities to do this does not appear to have acted as a deterrent. On the contrary, there is some evidence to show that some lads deliberately provoked such a transfer. To a "hard core case" it may well become a point of honour to be transferred to a Borstal because he is "too tough" for an approved school.

Historically speaking, few of Mr. Durand's recommendations or Mr. H. Davies Jones' comments offer a new approach to certain continuing difficulties in approved school management.

Ever since there have been institutions for the reception of lawbreakers, there have been periodic outbreaks of violence followed by inquiries, followed by more or less successful reforms. In each case some justification for those in charge has been sought by reference to incorrigibles (nineteenth century) or hard core cases (twentieth century). In each case, too, certain administrative shortcomings are pinpointed, all interrelated and all recurring with monotonous regularity. The tragedy of the Carlton School disturbances is their dull textbook pattern. The findings of the Standon Farm School Inquiry in 1947 isolate almost identical complaints to those tabulated by Mr. Durand, Q.C. Disturbances seem to occur either by an attack on a member of staff followed by absconding or a general riot with or without absconding. Causes rarely vary. The most often quoted are:

- (1) inadequate staff-inmate relationships;
- (2) prolonged detention;
- (3) excessive corporal punishment;
- (4) a sense of isolation (or hopelessness) by inmates;
- (5) lack of organised activity in leisure hours.

This applies to the Carlton School; it applied to Standon Farm School; it applied equally to the disturbances in the Doncaster Reformatory School for girls in 1877 or the outbreak of violence at the Mount St. Bernard Reformatory for boys in 1878, to mention only two other cases.

Social advance and the rise in the overall standard of living have not brought about the expected change in the field of juvenile delinquency. Nor can we honestly say that our approach to delinquency has altered substantially over the past 120 years. Principles laid down in England's first establishment for juvenile offenders (Parkhurst Boys' Prison 1839-63) still form

CORRESPONDENCE

the main methods of treatment practised today. Since the days of Parkhurst it has also been known that the success or failure of an institution depends entirely on the personal relationship between staff and inmates, and that it is essential to have a continuous system of inspection to safeguard both staff and delinquents. The principles evolved in this country are sound enough to remain valid, but techniques must change in order to keep pace with the times. It is my submission that a change of approach is vitally necessary in two fields, namely: personal relationship and inspection.

Mr. Durand has put inadequate personal relationships at the head of his list of underlying causes at Carlton, followed by the usual recital of institutional faults. But this is rather like diagnosing a disease and adding every single symptom as an additional disease. Where good personal relationships exist, for instance, there will be no undue (or misunderstood) delay in licensing, because such a delay must create bad relationships and become an integral part of such bad relationships. Most adults, if not all of them, *want* to enjoy good relationships with their charges. If they fail to develop them, then this is due to the difficulties created by opposed emotional needs or even conflicts. Since these emotional problems tend to be unconscious they create anxiety and aggression and thus lead to a breakdown of relationships. The delinquent and his mentor do not always speak the same language. It is necessary therefore to provide an impartial interpreter who can absorb some of the difficulties existing between the two parties, or separately in either one, and eliminate the negative response by interpreting the attitudes of one to the other. What I have in mind are the brilliant experiments of psychiatrists like Dr. P. D. Scott whose staff meetings within the approved school framework are the only sure method of preventing faulty management in institutions. Lack of space forbids a more detailed analysis of this technique, but both in training and in actual work is this method of *relationship control* required.

How is it possible, one may well ask, that under a theoretically perfect system of supervision, the same inadequacies of management can be repeated? There are managers to supervise the staff of approved schools and Home Office inspectors who supervise both. It does seem that certain aspects of approved school management cannot be sufficiently controlled by existing methods of supervision and inspection. The basic principles of school inspection were developed during the second half of the nineteenth century. At that time the physical, medical, educational and architectural standards of the (then) reformatories were often so low that it became a major duty of Home Office inspectors to alleviate actual physical suffering, shortage of food, inadequate clothing, ice-cold dormitories and excessive death-rates. This was a difficult task, but by the time Legge, who took over in 1896, had completed his reforms within Home Office schools, these had achieved a standard superior to that of the general population. Today we take the

CORRESPONDENCE

physical standards of institutions for granted. Methods of inspection should concentrate in the main on ascertaining the tone of a school, above all to assess the inter-institutional relationships on which *all other faults within a given school* depend.

Such inspections must of necessity break away from the established pattern of walks round schools, checks on books and records and courteous conversation with managers and heads of institutions. It would also require a greater power for the Home Office to insist on their recommendations being carried out, with a complementary countermeasure, requiring the Home Office to publish inspection reports to managers, heads of schools and such other individuals as are vitally involved in the management of the schools. This does not mean that I am advocating a system such as that used by England's first inspector (Reverend S. Turner) who was wont to publish such personal remarks as "... the mistress appears earnest and efficient but wanting in punctuality and order" (1st Rep.) or "This school appeared to me to want a more efficient superintendent..." (3rd Rep.).

England has long been famous for its schools and institutions (E. C. Wines, 1880). We can maintain our high standards if we are ready to avail ourselves of the additional support which modern psychiatric practice can provide.

I am, Sir,

Yours, etc.,

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